

**COMMONWEALTH OF PENNSYLVANIA
STATE CHARTER SCHOOL APPEAL BOARD**

**COLLABORATIVE NORTH PENN
CHARTER SCHOOL**

v.

NORTH PENN SCHOOL DISTRICT

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CAB Docket No. 2014-05

OPINION

In accordance with the Charter School Law, 24 P.S. §17-1701-A *et seq.* (CSL), this matter comes before the Pennsylvania State Charter School Appeal Board (CAB) on appeal by the Collaborative North Penn Charter School (Charter School) from the denial of its application by the North Penn School District (School District).

PROCEDURAL HISTORY

On November 14, 2013, the Charter School submitted its Application to establish a charter school (Exhibit 1, in four parts, on CD) to the School District and a public hearing was held before the District's Board of School Directors on December 12, 2013. The District denied the application on February 20, 2014. The stated grounds for the School District Board's denial were: (1) failure adequately to identify a physical facility in which the Charter School would be located; (2) failure to demonstrate that the Charter School is prepared to meet the needs of students with disabilities; (3) failure to provide adequate evidence of how the Charter School will provide liability and other appropriate insurance; and (4) failure to demonstrate sustainable support.

Following a decree issued by the Montgomery County Court of Common Pleas on August 8, 2014 establishing the sufficiency of the petition, the Charter School appealed the

School District's denial of its application to CAB on August 14, 2014. (HO-1). A hearing officer was appointed, a briefing schedule was established, and on April 22, 2015 the hearing officer certified the Record. (HO-19).

FINDINGS OF FACT

1. The Charter School submitted its initial proposal to establish a charter school to the School District on November 14, 2013. (Application, Exhibit 1).

2. The proposed start date for the Charter School was September 2, 2014. (Application, Exhibit 1, 1 of 4, p. 8).

3. In its Application and through testimony, the Charter School indicated that it was planning to use a building located at 900 Forty Foot Road, Kulpsville, Pennsylvania 19443. (N.T. 16-17¹; Application, Exhibit 1, 1 of 4, p. 62).²

4. At the hearing before the School Board, the Charter School introduced a copy of an email dated December 12, 2013 from the agent for the owner of 900 Forty Foot Road which stated: "My owner and I appreciate your interest in 900 Forty Foot Road. It was nice touring you around the facility on November 14, 2013 and the following week with your construction professional, John Parsons. We look forward to any further interest that you and Collaborative North Penn Charter School would have for a potential lease at the property." (Application, Exhibit 5). Based upon hearing testimony, the charter school was "in the middle of discussing" a lease arrangement. (N.T. 34).

¹ References are to the transcript of the hearing before the School Board on December 12, 2013 contained on CD.

² Two other options were listed in the Application but not discussed at hearing. (Application, Exhibit 1, 1 of 4, p. 62).

5. The Record does not contain the identity of the actual owner of the Forty Foot Road property, the details regarding terms of the lease, the cost of leasing the property, or the expected duration of any lease.

6. During the public hearing on December 12, 2013, the Charter School provided the School District with a letter from John Parsons of BSI Construction, LLC, who, after touring the Forty Foot Road site, was requesting the opportunity to renovate the site for use as a charter school. (Application, Exhibit 6).

7. On December 29, 2014, the Charter School was advised by letter that the original proposed site a 16,000 square foot office building/warehouse at 900 Forty Foot Road, Kulpville PA, was no longer available because the property owner had sold the property. (Exhibit A to HO-8).

8. On January 15, 2015, the Charter School moved to have the following information included in the certified record: (1) December 29, 2014 Letter of Curt Morton, Realtor, Brode and Brooks Inc. to Jennifer Arevalo and Wendy Ormsby at Exhibit A to HO-8; (2) the "Hatfield property" as described in a property drawing, Exhibit B to HO-8; and (3) a letter of intent signed by the Charter School's representatives at Exhibit C to HO-8. The Charter School submitted a brief in support of its Motion. (HO-8).

9. Before the Hearing Officer could rule on this first motion, the Charter School submitted a Second Motion to Supplement Certified Record (HO-16) and a brief in support of the Second Motion. (HO-17). This Second Motion explains that the Hatfield property is now unavailable (Letter of March 18, 2015 - Exhibit A to HO- 17) and included a March 24, 2015 Letter of Intent to Lease a location at 290 Wissahickon Avenue, Upper Gwynedd Township, Montgomery County, Pennsylvania. (Exhibit B to HO-17).

10. By Order of April 22, 2015 (HO-18), the Hearing Officer admitted into the Record the evidence that the Hatfield property was now unavailable and the March 24, 2015 Letter of Intent to Lease the location at 290 Wissahickon Avenue, Upper Gwynedd Township, Montgomery County, Pennsylvania.

11. Several of the founding members of the Charter School currently operate the Souderton Charter School Collaborative in the neighboring Souderton Area School District. (Application, Exhibit 1, 4 of 4, pp. 43-47).

12. The Charter School proposes to operate a school that will consist of students in grades K through 3 with a total projected enrollment of 106 students for the 2014-2015 school year; grades K through 4 with a projected enrollment of 142 students for the 2015-2016 school year; grades K through 5 with a projected enrollment of 180 students for the 2016-2017 school year; grades K through 6 with a projected enrollment of 204 students for the 2017-2018 school year; and grades K through 7 with a projected enrollment of 228 students for the 2018-2019 school year. (Application, Exhibit 1, 1 of 4, pp. 51-52).

13. The Charter School intends to offer a full-day kindergarten program. (Application, Exhibit 1, Fact Sheet).

14. The Charter School proposes to utilize a "full-inclusion" model of special education with two teachers per classroom but without any special education classrooms. (N.T. 23, 26).

15. During its first year of operation, the Charter School estimates that approximately thirteen percent of its student population will be comprised of students with disabilities. (Application, Exhibit 1, 4 of 4, p. 61).

16. The Application addresses supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. (Application, Exhibit 1, 1 of 4, p. 38).

17. Integrated services (*e.g.* occupational, physical and speech therapies) and supplemental aides and support will be delivered, where possible, in the home-base classroom rather than having a child pulled out to receive services or support. (Application, Exhibit 1, 1 of 4, p. 38).

18. A licensed special education teacher will be the case manager for all children with individual education programs. This teacher will work collaboratively with the home-base teacher to accommodate curriculum and pedagogy. In some instances, the special education teacher will co-teach the students. This collaboration will involve indirect services to the child, such as consultation and peer coaching to the home-base teacher, and direct services to the child, such as team teaching in numerous role options (*e.g.*, parallel teaching, alternate teaching, station teaching, one teach/one drift). (Application, Exhibit 1, 1 of 4, p. 38).

19. The Application is sufficiently specific in its plan for providing services to children with disabilities.

20. The Application contains a Certificate of Liability Insurance Declaration Page for Souderton Charter School Collaborative, a charter school with which some of the founding members of this Charter School are affiliated. (Application, Exhibit 1, 4 of 4, p. 83).

21. The Charter School promises to obtain “appropriate insurance” after the charter is granted. (Application, Exhibit 1, 1 of 4, p. 63).

22. The Application does not appear to budget any funds for the purchase of insurance. (Application, Exhibit 1, 4 of 4, p. 60).

23. The Application contains copies of twenty-three submissions regarding community support from potential parents or potential placing entities. (Application, Exhibit 1, 4 of 4, pp. 2-24).

24. There is no mention of “Collaborative North Penn Charter School” in any of these twenty-three submissions. (Application, Exhibit 1, 4 of 4, pp. 2-24). Approximately six of these reference the “North Penn Charter School Collaborative,” which is a different charter school.³ *Id.* at 2, 4, 5, 6, 8, 18.

25. The Charter School submitted with its application approximately sixty-eight forms that list the names of children whose parents apparently expressed an interest in having them attend the “Souderton Charter School Collaborative.” Nearly all of the forms were completed earlier than March of 2013, more than eight months prior to the Charter School’s submission of its application to the School District. (Application, Exhibit 1, 4 of 4, Appendix C, pp. 2-41).

26. Not one of the forms described in paragraph 25 references “Collaborative North Penn Charter School.” There is a box on the form for parents to check in order to indicate that they would be interested in enrolling their child in a “new Collaborative school located in the North Penn School District.” Twenty-five of the forms either do not have that box checked or were copied in such a manner that the box is not visible. (Application, Exhibit 1, 4 of 4, pp. 25-41).

27. During the public comment portion of the hearing on December 12, 2013, ten citizens stood up to speak. Of those ten speakers, no more than three indicated that they had children whom they would consider sending to the Charter School. Of the ten speakers who

³ Based upon the School District’s Brief, an application for a “North Penn Charter School Collaborative” charter school was submitted to the District in 2012. This application was denied on February 12, 2013 without subsequent appeal. (HO-15, p. 16).

expressed their support, at least four of the individuals have children or grandchildren who currently attend, or previously attended, the “Souderton Charter School Collaborative.” The remaining submissions reference either support for charter schools in general or support for a school similar to the Souderton Charter School Collaborative also being established within the North Penn School District. (N.T. 53-72).

CONCLUSIONS OF LAW

1. CAB has jurisdiction in this matter. 24 P.S. § 17-1717-A(i)(1).
2. The CSL governs the application process, the approval process, and the operation of charter schools in Pennsylvania. 24 P.S. §17-1701-A *et seq.*
3. The School District complied with all procedural requirements of the CSL in denying the Application.
4. CAB has the authority under the CSL to agree or disagree with the findings of the School District based upon its “de novo” review of the certified record. 24 P.S. § 17-1717-A(i)(6); *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 461 (Pa. Cmwlth. 2000).
5. The Charter School has the burden of proving that all of the enumerated requirements as to contents of a charter school application were satisfied, including:
 - (i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing under subsection (d).
 - (ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.

- (iii) The extent to which the application considers the information requested in Section 1719-A and conforms to the legislative intent outlined in Section 1720-A.
- (iv) The extent to which the charter school may serve as a model for other public schools.

24 P.S. § 17-1717-A(e)(2). (Footnotes omitted).

6. The Charter School's Application did not comply with the CSL which requires "a description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements." 24 P.S. §17-1719-A(11).

7. Evidence of securing a facility after the School District had denied the Application did not cure the defect in the original application. *In Re: Appeal of Phoenix Academy Charter School*, Docket No. CAB 1999-10.

8. The Charter School demonstrated that it could meet the needs of students with disabilities. 24 P.S. § 17-1732-A(b).

9. Concerning insurance, the Application contained the required limited information regarding how the charter school will provide adequate and appropriate insurance coverage for the school, employees, and board of trustees. 24 P.S. §17-1719-A(17).

10. The Charter School has not demonstrated sustainable support by teachers, parents, students, and other community members for its plan, either in its application materials or during the public hearings conducted to review the application. 24 P.S. §17-1717-A(e)(2)(i).

11. The Charter School has not demonstrated that it is capable of providing comprehensive learning opportunities to its students, in terms of community support. 24 P.S. §17-1717-A(e)(2)(ii).

DISCUSSION

I. Standard of Review

In an appeal before CAB, the decision made by the Local Board of School Directors shall be reviewed on the record as certified. CAB shall give “due consideration to the findings of the local board of directors” and “specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision.” 24 P.S. §17-1717-A-(i)(6).

The Commonwealth Court has held in the case of the denial of a charter school application that “[t]he General Assembly has unquestionably granted the CAB the authority to substitute its own findings and independent judgment for that of the local board.” *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 461 (Pa. Cmwlth. 2000).

While giving due consideration to the vote of the School Board, CAB must independently review the record in accordance with the requirements of the CSL.

Section 1717-A(e)(2) of CSL provides that a charter school application is to be evaluated based on the following criteria:

- (i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (d).
- (ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.
- (iii) The extent to which the application considers the information requested in section 1719-A and conforms to the legislative intent outlined in section 1702-A.
- (iv) The extent to which the charter school may serve as a model for other public schools.

24 P.S. §17-1717-A(e)(2). (Footnotes omitted).

II. Facility Requirements

The Charter School Law requires that “an application to establish a charter school shall include . . . a description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.” 24 P.S. §17-1719-A(11).

In its Application and through testimony, the Charter School initially indicated that it was planning to use a building located at 900 Forty Foot Road, Kulpsville, Pennsylvania. (N.T. 16-17).⁴ The Charter School introduced a copy of an email dated December 12, 2013 from the agent for the owner of 900 Forty Foot Road which stated:

My owner and I appreciate your interest in 900 Forty Foot Road. It was nice touring you around the facility on November 14, 2013 and the following week with your construction professional, John Parsons. We look forward to any further interest that you and Collaborative North Penn Charter School would have for a potential lease at the property.

(Application, Exhibit 5). The Charter School submitted testimony that it was “in the middle of discussing” a lease arrangement with the agent. (N.T. 34). The record does not contain the identity of the actual owner of the Forty Foot Road property, no details regarding the cost of leasing the property, nor the expected duration of any lease.

Where a charter school applicant has secured a property for application purposes and subsequently loses the property prior to CAB’s hearing on the appeal, CAB has previously accepted supplemental evidence of a new facility after the previously identified facility becomes unavailable. *See Propel Charter School—West v. Sto-Rox Public School District*, Docket No. CAB 2013-09. In *Propel West*, CAB found that the evidence of loss of property and securing of new property met the statutory criteria of having been “previously unavailable,” pursuant to 24 P.S. § 17-1717-A (i)(6), and thus could be accepted into evidence. CAB granted Propel West’s

⁴ Two other options were listed in the Application but not discussed at hearing. (Application, Exhibit 1, 1 of 4, p. 62).

application for a charter school after which the school district would “have the opportunity to insure that the facility ultimately constructed complies with all applicable laws.” *Id.* at 13, 19.

The School District argues that the Application here contained a “fatal defect,” relying upon *In Re: Appeal of Phoenix Academy Charter School*, Docket No. CAB 1999-10, in which CAB found that the failure of a charter school to provide “the required information, [a description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements] regarding the proposed facility to be utilized by the school” prior to the vote on the application by the local board of school directors is a “fatal defect” in a charter application that cannot be cured by the submission of information regarding the procurement of a new facility to the CAB-appointed hearing officer. *Id.* at 20-21. CAB distinguished between the facts of *Phoenix*, where the charter applicant failed to provide the required facility information to the local school board *as part of its application*, and the scenario in which a charter school initially meets the CSL’s requirement of identifying a facility but then later loses that facility pending an appeal. *Id.*

Now that the proposed site is the one at Wissahickon Avenue, Upper Gwynedd Township, the subject of supplemental materials admitted by the Hearing Officer, CAB must determine whether this is a situation in which a charter school initially met the CSL’s requirement of identifying a facility but later lost that facility pending appeal or whether the charter school applicant failed to provide the required facility information to the local school board as part of its Application.

After close examination of the initial Application, CAB finds that it did not contain all of the elements required by the CSL. While it unquestionably contained the address of the property, that Application does not contain the identity of the actual owner of the Forty Foot

Road property, no details regarding the cost of leasing the property, or any terms or the expected duration of any lease. The testimony shows that the Charter School had explored using the Forty Foot Road property but that no solid arrangements had been made with the owner to lease this property. The fact that this property was sold little more than two weeks after the hearing on the Charter School's Application further belies the assertion that lease arrangements were under serious discussion. Thus, CAB concludes that the Application was deficient and that the facts here fall squarely within CAB's previous holding in *In Re: Appeal of Phoenix Academy Charter School*, Docket No. CAB 1999-10.

The "fatal defects" in this charter application, as submitted to the School Board, cannot be cured by the submission of information regarding the procurement of the Wissahickon Avenue site which was much later submitted to the CAB-appointed hearing officer. The Charter School's failure to meet the statutory requirements with respect to facility is also an indication of its failure to establish, through proper planning, its capability to provide comprehensive learning experiences to its intended students.

III. Meeting the Needs of Students with Disabilities

Pursuant to Section 1732-A(b) of the CSL, charter schools must comply with Chapter 711 of the Regulations of the State Board of Education regarding the education of students with disabilities. The Chapter 711 regulations incorporate many of the requirements contained within the federal implementing regulations of the Individuals with Disabilities Education Act ("IDEA"). 22 Pa. Code §711.3. One of the requirements is the "Continuum of alternative placements" at 34 C.F.R. 300.115:

- (a) *Each public agency must ensure that a continuum of alternative placements is available to meet the needs of*

children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

(1) Include the alternative placements listed in the definition of special education under § 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

In its Application, the Charter School estimates that approximately thirteen percent of its student population in its first year of operation will be comprised of students with disabilities.

(Application, Exhibit 1, 4 of 4, p. 61). Ms. Wendy Ormsby, founder of the Charter School, stated that the school plans on relying upon a “full inclusion” model of special education with two teachers per classroom. (N.T. 23, 26). The Application contains the following:

At flexible times during the day, students with and without IEPs may leave their home classroom with an instructor in a small group or a one-to-one setting for specialized learning opportunities in various breakout rooms throughout the school. For example, a small group of students (with and without IEPs) may go to a breakout room for reading or spelling instruction at their instructional level. At another time during the day, a student with an IEP may go to the same breakout room to receive occupational therapy or one-to-one math instruction. Breakout rooms throughout the school will be utilized by all students at some time during the day or week. . . .

(Application, Exhibit 1, 1 of 4, p. 38).

The Application talks about supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement, as follows:

Integrated services (e.g. occupational, physical and speech therapies) and supplemental aides and support will be delivered, where possible, in the home-base classroom, rather than having the

child pulled out to receive services or support. . . . Because the school philosophy embraces the belief that learning is a cooperative enterprise and that intelligence is distributed, almost all children will work outside of the classroom at some time during the school week: in great rooms, small breakout areas, or in the community. . . .

A licensed special education teacher will be the case manager for children with IEPs. This teacher will work collaboratively with the home base teacher to accommodate curriculum and pedagogy. In some instances, the special education teacher will co-teach their students. This collaboration will involve indirect services to the child such as consultation and peer coaching to the home base teacher, and direct services to the child such as team teaching in numerous role options (*e.g.*, parallel teaching, alternate teaching, station teaching, one teach/one drift). . . .

Id.

The Charter School presented testimony that it would not have “any special education rooms.” (N.T. 23). The School Board denied the Application because it concluded that the applicant had not demonstrated that its program has the capacity to meet the needs of students “who require more than one hundred percent inclusion in the general education setting.” (Decision, p. 6).

The Charter School cites *Oberti v. Board of Education of the Borough of Clementon Sch. Dist.*, 995 F.2d 1204 (3d Cir. 1993), and *Gaskin v. Pennsylvania*, 389 F. Supp. 2d 628 (E.D.Pa. 2005), as supportive of its model of full inclusion. The School District says that these two cases do not stand for the proposition that schools are prohibited from having restrictive placement options. According to the School District, IDEA explicitly requires that placements be available in the event that they are needed.

The Charter School also points to *In Re: Gillingham Charter School*, CAB Docket No. 2010-7, for the proposition that “CAB has historically specifically rejected school district attempts at the requirement of minutiae from a charter school applicant in the description of their

special education compliance.” (HO-13, p. 19). The School District contends that it is not requiring minutiae but that the lack of a continuum of alternative placements runs afoul of both federal and state law.

The Charter School cites *In Re: Bucks County Montessori Charter School*, CAB Docket No. 1999-7 at 28, stating that it is improper for the School District to require the charter applicant’s special education guidelines to correspond to its own guidelines. (HO-13, p. 20). The School District says that the Application contains no special education guidelines; and that it is simply evaluating the Application against the requirements contained within the CSL.

The Charter School relies on *In Re: Collegium Charter School*, CAB Docket No. 1999-9 at 9. In *Collegium*, CAB rejected the School District’s finding that the charter school did not fully understand the needs of special education students where Collegium stated that it would “meet all legal requirements in this regard.” *Id.* The School District argues that this Record does not even contain such a promise.

The Application does provide for services to children with disabilities. The School District may not have liked the plan as set forth; but CAB has determined that the Charter School has sufficiently met its burden of describing a plan for serving children with disabilities that meets the CSL requirements, as well as those of other applicable laws.

IV. Adequate Evidence of Liability and Other Appropriate Insurance

Pursuant to section 1719-A(17) of the CSL, a charter school applicant must submit a description of how the school will provide adequate liability and other appropriate insurance. The law provides no further guidance. The Application here contains a Certificate of Liability Insurance Declaration Page for Souderton Charter School Collaborative. (Application, Exhibit 1,

4 of 4, p. 83). Souderton is another charter school with which some of the founding members of this Charter School are affiliated.

The Charter School says that it has promised to obtain “appropriate insurance” after the charter is granted. (Application, Exhibit 1, 1 of 4, p. 63). The School District, however, faults it for failing to provide any insurance quotations or letters of intent to obtain insurance. Perhaps more troubling, the Application does not appear to budget any funds for the purchase of insurance. (Application, Exhibit 1, 4 of 4, p. 60).

Like the School District, CAB would prefer that an application be more specific with respect to “appropriate insurance.” In contrast, the CSL does not require precise information concerning all of the requirements for the operation of a charter school, and this is particularly true in the case of insurance. Nonetheless, we agree with the School District and find this to be a deficiency, albeit one which alone would not be a sufficient basis to deny this appeal.

V. Sustainable Support for the Plan by Teachers, Parents, Other Community Members and Students

Section 1717-A(e)(2)(i) of the CSL provides that an application is to be evaluated based on the “demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing” 24 P.S. §17-1717-A(e)(2)(i). “Sustainable support” has been defined by CAB as “support sufficient to sustain and maintain a charter school as an ongoing entity.” *In Re: Washington Classical Charter School*, CAB Docket No. 2012-05 at 12, (citing *Bear Creek Community Charter School*, CAB Docket No. 2003-3). It “has described the required demonstrated sustainable support as an ‘inherent variable’ depending on the size of the proposed school, the community and other

factors.” *In Re: Washington Classical Charter School*, CAB Docket No. 2012-05 at 12 (citing *Environmental Charter School*, CAB Docket No. 1999-14).

“The indicia of support must be measured in the aggregate rather than by individual categories. Although the failure of an applicant to demonstrate strong support in any one category is not necessarily fatal, a reasonable amount of support in the aggregate must be demonstrated.” *In Re: Appeal of Denial of Charter for City College Prep Charter School*, CAB Docket No. 2006-1, pp. 9-10.

The School District points to what it calls “woefully insufficient evidence” to demonstrate sustainable support from parents, students, faculty and the community. (HO-15, p. 19). The school would have an initial enrollment of 106 students; but by its fifth year of operation, it is designed to have 228 students in grades K through 7. (Application, Exhibit 1, 1 of 4, pp. 51-52).

The Application contains copies of approximately twenty-three submissions regarding community support from potential parents or potential placing entities. (Application, Exhibit 1, 4 of 4, pp. 2-24). The School District points out that there is not a single mention of “Collaborative North Penn Charter School” in any of these documents with approximately six of these referencing the “North Penn Charter School Collaborative,” which is a different school altogether. *Id.* at 2, 4, 5, 6, 8, 18. Based upon the School District’s Brief, in 2012 an application for a North Penn Charter School Collaborative charter school was submitted to the District, was denied, and the denial was not appealed.⁵ The remaining submissions reference either support for charter schools in general or support to establish within the North Penn School District a school similar to the Souderton Charter School Collaborative.

⁵ The Hearing Officer could find no support for this statement in the Record, but this fact was not disputed in the brief from the Charter School.

Four of the individuals who sent written submissions also spoke during the December 12, 2013 hearing. Six other citizens spoke at the hearing in support of the Charter School. Of these ten, no more than three indicated that they had children whom they would consider sending to the Charter School. Four others spoke from the perspective of having children or grandchildren who currently attend, or previously attended, the Souderton Charter School Collaborative. (*See* N.T. 53-72).

Of approximately sixty-eight forms submitted with its Application, not one references “Collaborative North Penn Charter School.” (Application, Exhibit 1, 4 of 4, pp. 25-41). The School District argues that while there is a box on the form for parents to check in order to indicate that they would be interested in enrolling their child in a “new Collaborative school located in the North Penn School District,” at least twenty-five of the forms either do not have that box checked or were copied in such a manner that the box is not visible.

The Charter School contends that these forms demonstrate support because they represent parents who reside within the District who are interested in sending their children to the Souderton Charter School Collaborative. (HO-13, p. 23). The School District counters by arguing that a parent who has applied for admission to a particular charter school in a neighboring school district does not necessarily desire to send her/his child to a charter school located within the School District.

Also, nearly all of the student forms were completed before March 2013, more than eight months prior to this Application. (Application, Exhibit 1, 4 of 4, pp. 25-41). The School District points out that forty-six of the sixty-eight forms are dated prior to February 12, 2013, the date on which the District denied the application of “North Penn Charter School Collaborative.”

In the case of *In Re: Arts and 3 R's Inc. d/b/a Helen Murray Charter School for the Arts*, CAB Docket No. 2005-5, p. 9, CAB found that enrollment forms that had been submitted in prior years for prior charter school applications did not constitute adequate support for the charter school that was currently under consideration.

As for support by teachers, no documentation or testimony is in evidence upon which to conclude that there are any current School District teachers who support the creation of the school. The Application also does not contain any resumes from individuals interested in serving as teachers in the new school.

The School District argues that without a single pre-enrollment form or a single letter of support, the only community support that specifically references the "Collaborative North Penn Charter School" is the testimony of the ten individuals who spoke during the public comment portion of the hearing on December 12, 2013. The Charter School's rebuttal is that its intention is to replicate the Souderton Charter School Collaborative, offering the same programs to families in the North Penn School District who are unable to enroll at Souderton because of the lottery process and high enrollments of Souderton families. (N.T. p. 9).

Thus, CAB agrees with the School District that the evidence of community support *for this particular charter school*, in the aggregate, is insufficient to satisfy the requirements for such support as contained in the CSL.

CONCLUSION

In conclusion, CAB denies the Charter School's appeal for the reasons set forth above. Thus, CAB makes the following:

COMMONWEALTH OF PENNSYLVANIA
STATE CHARTER SCHOOL APPEAL BOARD

COLLABORATIVE NORTH PENN
CHARTER SCHOOL

v.

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CAB Docket No. 2014-05

ORDER

AND NOW this 30th day of June, 2015, based upon the foregoing and the vote of this Board⁶, the Appeal of Collaborative North Penn Charter School is **DENIED**.

FOR THE STATE CHARTER SCHOOL
APPEAL BOARD


Pedro A. Rivera, Chair

Date Mailed: 7/1/15

⁶ At the Board's meeting on June 9, 2015, the appeal was denied by a vote of 6 to 0 with Board Members Bracey, Miller, Munger, Peri, Rivera and Yanyanin voting to grant and Board Member Cook recusing herself from participation in this appeal.