

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD

In Re: Appeal of Environmental Charter :
School at Frick Park...an : Docket # CAB 2007-05
Imagination School :

OPINION AND ORDER

I. Introduction

This matter is before the Pennsylvania State Charter School Appeal Board (CAB) on an appeal by the Environmental Charter School at Frick Park...an Imagination School (Frick) from the denial of its charter school application (Application) by the Pittsburgh School District (District).

II. Findings of Fact

1. On October 13, 2006, Barbara Hicks, David Lassman and Michael Shiller submitted an application to the District for a charter to operate a charter school to be known as Environmental Charter School at Frick Park...an Imagination School.
2. Frick is proposed to be a K-8 school located in the Regent Square neighborhood of the City of Pittsburgh and is proposed to offer an environmentally themed curriculum in partnership with Imagine Schools.
3. In the first year, Frick intends to enroll students in kindergarten through 3rd grade. It plans to add a grade every year until it reaches 8th grade.
4. A public hearing regarding the application was held on November 13, 2006.

5. A District review team conducted an evaluation of the charter application and conducted a site visit and interview.
6. The review team presented the results of its evaluation of the charter application to the District on January 8, 2007.
7. The review team recommended that the Board deny the charter application.
8. On January 15, 2007, Frick submitted a written response to the deficiencies identified by the review team.
9. On January 24, 2007, the District voted to deny the charter application.
10. By correspondence dated January 24, 2007, Frick was informed of the Board's decision.
11. The January 24, 2007, letter stated that the reasons for denial were:
 - Charter applicant does not provide expanded choice and cannot serve as a model for Pittsburgh Public Schools.
 - Charter applicant failed to complete the requirements of application as required by PA Charter School Law, sections 1717-A and 1719-A.
12. On March 23, 2007, Frick filed a Petition to Appeal the denial of its application in the Court of Common Pleas of Allegheny County at docket number GD 07-006405.
13. On May 29, 2007, the Court entered an order that the Petitions were sufficient under the Charter School Law.
14. On or about June 14, 2007, Frick served its Petition of Appeal on the District and on the CAB.
15. On July 3, 2007, the District filed an Answer to the Petition.

16. The Petition to Appeal was acknowledged by the CAB and docketed on August 28, 2007.
17. A pre-hearing conference was held on September 4, 2007.
18. The parties agreed to waive the right to a hearing and to not supplement the record.
19. Frick submitted a brief on the issues in its appeal on September 17, 2007.
20. The District submitted a brief in support of its denial on September 28, 2007.
21. The CAB heard oral arguments on Frick's Petition for Appeal on October 2, 2007.
22. Frick has not provided an Environmental Science or Ecology curriculum in its application materials.
23. The application only includes goals and guidelines as to what the environmental curriculum may be in the future.
24. Frick acknowledges that it has not yet prepared an environmental curriculum.
25. A sufficient curriculum was not presented for use in kindergarten through 3rd grade which would be not be needed for the first year of operation of the school.
26. Frick did not demonstrate that its programs were innovative or that it would serve as a model for other public schools.
27. Without an environmental curriculum for the proposed environmental charter school, the CAB cannot evaluate whether the charter plan conforms to the legislative intent to offer expanded choice or whether Frick would serve as a model for other public schools.

III. Conclusions of Law

1. The present appeal is properly before the CAB, pursuant to the Charter School Law, 24 P.S. §§ 1701-A, *et seq.*
2. The standard that the CAB must apply in making a decision on appeal is set forth in 24 P.S. § 1717-A (e)(2).
4. The criteria for evaluating a charter school application under Section 1717-A(e)(2) of the Charter School Law are:
 - a. 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 section (d);
 - b. 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.
 - c. 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; and
 - d. The extent to which the charter school may serve as a model for other public schools.
11. The Charter School Appeal Board must give due consideration to the findings of the District.
12. A charter school has the burden of proving that all of the enumerated requirements for the contents of the charter school application were satisfied.

13. The applicable standard of review is not the standard used by appellate courts because the CAB has the authority, under the Charter Law, to agree or disagree with the findings of the school district, and to allow the charter school and/or the local board of directors to supplement the record if supplemental information was previously unavailable.
14. Frick has not provided sufficient information about the curriculum to be offered to satisfy 24 P.S. § 17-1719-A (5).
15. Frick has failed to demonstrate that its programs would serve as a model for other public schools as required by 24 P.S. § 17-1717-A (e)(2)(iv).
16. Frick has failed to establish that it conforms to the legislative intent that charter schools are to be innovative as required by 24 P.S. § 17-1717-A (e)(2)(iii) (citing 24 P.S. § 17-1702-A).

IV. Discussion

A. Evidentiary Issues

Before discussing the merits of this appeal, a preliminary matter must be addressed. Frick has argued that items generated by the District's review team should not be considered by CAB, because they were not subject to cross-examination. When a charter application is filed, the district assigns a team of staff members to review the application, visit the proposed school site and conduct interviews. This Review Team then reports its findings and recommendation's to the board of School Directors. This process has been utilized by the District previously and has been acknowledged by the CAB without objection in prior cases. *See, e.g., In re: City College Prep Charter School*, CAB Docket No. 2006-1 at 1. Also, the Review Team functions within the charter school application process under Section 1717-A of the Charter Law, a process

which does not afford applicants the right to examine or cross-examine witnesses. See In re: Education InnovationsLAB Charter School, Docket No. 2007-01, at 8-9.

Further, since the decision of this Board is based solely on the failure of Frick to include a specific environmental curriculum in its application, which is the only specific reason included in the District's denial, the material submitted by the review team is largely irrelevant to this decision. For these reason's Frick's argument is rejected.

B. Reason for Denial

The Charter School Law requires that a charter application must contain "the curriculum to be offered . . ." 24 P.S. § 17-1719-A(5). Consistent with this provision, CAB has found that the Charter School Law "requires that the charter school describe a curriculum of some substance" in its application. In re: Environmental Charter School, Docket No. CAB 1999-14 at 14. In addition CAB has stated that, "[g]oals and guidelines as to what the curriculum may be in the future are insufficient." *Id.* The failure of a charter school applicant to provide a sufficient curriculum plan has been found to be a basis for the denial of an application, because it is evidence that the proposed charter school could not be a model for other public schools, *see, In re: Environmental Charter School*, Docket No. CAB 1999-14 at 21.

The application in this case indicates that both the specific environmental curriculum and the interlacing of environmental themes throughout the other curricular areas will be developed later. Since they were not developed at the time of the application, it would not be possible for a District to evaluate the curriculum to determine if it meets the legislature's intent that charter schools provide innovative curriculum and that they serve as a model for other public schools. Although Frick indicates its intent to focus on the environment, it has not presented anything in

its application except vague goals and guidelines regarding how it will integrate an environmental curriculum throughout the core subject areas of the curriculum.

The Commonwealth Court in Carbondale Area School District v. Fell Charter School, 829 A.2d 400 (Pa. Commw. Ct. 2003) agreed with the CAB that it is necessary to have a sufficiently detailed curriculum for the grades that the charter applicant intends to have students enroll in its first year of operation. For Frick to have met this requirement, it would have been necessary for it to provide a sufficiently detailed curriculum for kindergarten through 3rd grade. The failure to provide a detailed curriculum, which includes an environmental focus is sufficient grounds for denial of the charter. And, CAB adopts the District's finding and conclusion in this regard.

A charter school cannot be properly evaluated to determine if it is innovative or if it will serve as a model for other public schools if a sufficiently detailed curriculum is not provided. As this Board held in In re: Environmental Charter School, Docket No. CAB 1999-14, [t]he CAB has agreed with the School Board that the proposed curriculum shows a lack of planning and specificity to assure that students receive comprehensive learning experiences. Therefore, unless and until the curriculum is more fully developed, the CAB cannot find that ECS would be a model for other public schools.” at 21.

III. Conclusion

Frick has failed to show that it would provide expanded choice. It has also failed to show that it would serve as a model for other public schools. Due to these failures, the decision of the Pittsburgh School District to deny the application of the Environmental Charter School at Frick Park...an Imagine School is upheld.

ORDER

AND NOW, this 28th day of January, 2008, based upon the foregoing and the vote of this Board¹, the June 14, 2007, appeal of the Environmental Charter School at Frick Park...an Imagine School is hereby denied.

For the State Charter School Appeal Board

/s/
Gerald L. Zahorchak, D.Ed.
Chairman

¹ At the Board's November 13, 2007 meeting, the appeal was denied by a vote of 0-6 with members Zahorchak, Barker, Green, Reeves, Schweighofer, and Shipula voting to deny the appeal.