

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

In Re: Appeal of Community Service : No. CAB 2010-02
Leadership Development Charter :
School (Pittsburgh School District) :

OPINION AND ORDER

I. Introduction

On October 1, 2010, the Pennsylvania Charter Appeal Board (“CAB”) denied the Community Service Leadership Development Charter School’s (“CSLD”) appeal of the Pittsburgh School District’s (“District”) decision to deny its charter application. CSLD appealed CAB’s decision to the Pennsylvania Commonwealth Court. On January 5, 2012, the Court vacated and remanded CAB’s decision to deny CSLD’s appeal. In the Court’s decision CAB was directed to “specifically articulate the deficiencies in [CSLD’s] application so that the applicant may address those deficiencies in an amended or new application.” *Community Service Leadership Development Charter School v. Pittsburgh School District*, No. 2372 C.D. 2010, at 13 (filed January 5, 2012). This matter now once again is before CAB in order to specifically articulate the deficiencies in CSLD’s charter school application.

II. Findings of Fact

1. On November 17, 2008, CSLD submitted an application for a charter to the District.
2. That application was denied by the District on February 24, 2009.
3. On November 16, 2009, CSLD submitted a revised application to the District.

4. The revised application consisted of the original application and an additional binder of updates to exhibits.
5. The application indicates that CSLD intends to be a K-8 school, segregated by gender in all grades, with community service and leadership development themes integrated into the curriculum.
6. A District review team conducted an evaluation of the revised application.
7. The District held a public hearing on the revised application on December 7, 2009.
8. The District review team presented its findings and recommendations to the Board on December 9, 2009.
9. The District review team recommended that the District deny the revised and resubmitted charter application.
10. On December 15, 2009, the District voted to deny the revised application.
11. The District's grounds for the denial were set out in a letter dated December 16, 2009.
12. The District's grounds for the denial were the inability to provide comprehensive learning experiences to students, the lack of offering an expanded choice, the lack of a developed curriculum, and a failure to offer innovative programs and serve as a model for public schools.
13. The Court of Common Pleas of Allegheny County issued a decree on March 22, 2010, establishing the sufficiency of CSLD's petition to appeal the charter denial.
14. On April 5, 2010, CSLD filed this appeal.
15. The District filed an Answer to the appeal.

16. At its July 27, 2010 meeting, the CAB heard oral arguments regarding CSLD's appeal of the denial of its application.
17. On October 1, 2010, CAB denied CSLD's appeal of the District's decision to deny its charter application.
18. CSLD appealed CAB's denial of its charter to the Pennsylvania Commonwealth Court.
19. On January 5, 2012, the Pennsylvania Commonwealth Court vacated and remanded CAB's decision to deny CSLD's appeal.
20. The Pennsylvania Commonwealth Court instructed CAB to "specifically articulate the deficiencies in [CSLD's] application so that the applicant may address those deficiencies in an amended or new application."
21. By letter dated May 2, 2012, CAB requested that counsel for CSLD and the District provide guidance to CAB on options for how to comply with the Commonwealth Court's remand instructions.
22. On June 7, 2012, CAB instructed the District to submit additional findings of fact on the specific issue of the deficiencies in the curriculum related to gender-based instruction and the themes of community service and leadership.
23. CSLD was given the opportunity to respond to the additional findings of fact.
24. CSLD's application indicates that community service and leadership will be an important aspect of CSLD.
25. The application does not adequately indicate how community service and leadership development will be integrated into the curriculum.

26. In the curriculum, there are only brief and cursory references to the community service and leadership themes which are purportedly main tenants of the charter school.
27. CSLD's Policy and Practice Implementation Guidelines only provides a list of community service themes, by grade, and examples of potential activities that could demonstrate that theme.
28. One potential community service activity per grade level does not properly integrate the theme of community service into the curriculum.
29. CSLD's Policy and Practice Implementation Guidelines only provide vague leadership principles, with no explanation of how these principles will be taught.
30. One potential leadership development activity per grade level does integrate the theme of leadership development into the curriculum.
31. The curriculum is deficient because it does not integrate community service and leadership development into the curriculum.
32. CSLD's application indicates that gender-based instruction will be utilized.
33. The application does not adequately indicate how gender-based instruction will be integrated into the curriculum.
34. The curriculum does not differentiate between genders.
35. The only portion of CSLD's application that differentiates between genders is the implementation guidelines.
36. CSLD's Language Arts Literacy Policy and Practices Implementation Guidelines state that "[g]ender is addressed . . . through three components: (1) research-

based differences in learning, (2) teaching methodology, and (3) environmental influence.” R. at 633a.

37. The gender components are only briefly discussed and do not provide an adequate foundation for gender-based instruction. R. 633a-636a.
38. The curriculum is deficient because it does not articulate how gender-based instruction is integrated into the curriculum.
39. CSLD failed to demonstrate its capability, in terms of support and planning, to provide a comprehensive learning experience to students pursuant to the proposed charter because the curriculum did not integrate community service and leadership development into the curriculum.
40. CSLD failed to demonstrate its capability, in terms of support and planning, to provide a comprehensive learning experience to students pursuant to the proposed charter because the curriculum did not articulate how gender-based instruction is integrated into the curriculum.

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 in this case is set forth in 24 P.S. § 1717-A (e)(2).
3. 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.

4. Section 17-1747-A incorporates Section 1719-A of the Charter School Law, which requires that the following be included in the application:

- a. The identification of the charter applicant. 24 P.S. § 17-1719-A(1);
- b. The name of the proposed charter school. 24 P.S. § 17-1719-A(2);
- c. The grade or age levels served by the school. 24 P.S. § 17-1719- A(3);
- d. The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees. 24 P.S. § 17-1719-A(4);
- e. The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals. 24 P.S. § 17-1719-A(5);

- f. The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A. 24 P.S. § 17-1719-A(6);
- g. Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318. 24 P.S. § 17-1719-A(7);
- h. Information on the manner in which community groups will be involved in the charter school planning process. 24 P.S. § 17-1719-A(8);
- i. The financial plan for the charter school and the provisions which will be made for auditing the school under section 437. 24 P.S. § 17-1719-A(9);
- j. Procedures which shall be established to review complaints of parents regarding the operation of the charter school. 24 P.S. § 17-1719-A(10);
- k. The address and description of the physical facility in which the charter school will be located, the ownership thereof and any lease arrangements therefor. 24 P.S. § 17-1719-A(11);
- l. Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502. 24 P.S. § 17-1719-A(12);
- m. The proposed faculty and a professional development plan for the faculty of a charter school. 24 P.S. § 17-1719-A(13);
- n. Any agreements which may have been entered into or plans which may have been developed with the local school district regarding participation of the charter school students in extracurricular activities within the school

district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence provided that the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity. 24 P.S. § 17-1719-A(14);

- o. Pursuant to section 111, a report of criminal history record for all individuals who shall have direct contact with students. 24 P.S. § 17-1719-A(15);
- p. An official clearance statement regarding child injury or abuse from the department of public welfare, as required by 23 Pa.C.S. ch. 63 subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students. 24 P.S. § 17-1719-A(16); and
- q. How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employes and the board of trustees of the charter school. 24 P.S. § 17-1719-A(17).

- 5. The CAB must give due consideration to the findings of the District.
- 6. A charter school has the burden of proving that all of the enumerated requirements for the contents of the charter school application were satisfied.
- 7. 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 the supplemental information was previously unavailable.

8. The Charter School failed to show that it is capable of providing a comprehensive learning experience to students pursuant to the charter, as mandated by Section 1717-A(e)(2)(ii) of the Charter Law, 24 P.S. §1717-A(e)(2)(ii).
9. The Charter School failed to show how it will serve as a model for other public schools, as mandated by Section 1717-A(e)(2)(iv) of the Charter Law, 24 P.S. §1717-A(e)(2)(iv).
10. The School District properly denied the Charter School's Application.

IV. Discussion

A. Evidentiary Issues

Both parties in this matter have requested that additional evidence be considered as supplemental information. In the instant case, the CAB will not accept the following information submitted by the parties:

1. 2008 Internal Memorandum authored by the CEO of Imagine Schools. The District has requested that this document be submitted. The District, in its brief, acknowledges that this item first came to light during the District's preparation of its Review Team's presentation and was actually relied on as part of the Board's decision. It was, therefore, obviously available at the time of the Board's decision and is not now appropriately submitted as supplemental information that was previously unavailable.
2. Philadelphia Controller's Review of Charter School Oversight: A Fraud Vulnerability Assessment, April 2010. The District has requested that this document be admitted as information not in existence at the time of the application. It is true that the document was not

in existence at the time of the application. It is not, however, relevant to the matter before the CAB. The District points to a finding in the report that the District asserts is relevant only because of a sub-lease agreement in the present matter. Other than a conclusory statement by the District that the finding is relevant to this matter, there is nothing in the record to tie this report to the matter before the CAB. It is, therefore, not relevant and will not be considered by the CAB.

3. The New York Times news article, "For School Company, Issues of Money and Control." This article does not refer to the application before the CAB and is irrelevant to this matter.

4. Offer letter of September 4, 2009; email exchange with Urban Redevelopment Authority dated November 9, 2009; email exchange with Counsel for Respondent dated March 17, 2010; and Pittsburgh Tribune-Review article dated March 3, 2010. CSLD has requested that these documents be considered by the CAB. These items relate to alleged attempts by the District to sell the Burgwin Elementary School. These items are not relevant to the matter before the CAB. One of the items stated in the Application Review Team's list of Detailed Concerns was that in CSLD's original application CSLD listed the Burgwin School building as the location for CSLD; however, there had been no offers or negotiations between CSLD and the District related to that building. Nothing in the exhibits proffered by CSLD shows that CSLD had made an offer for the building or had any negotiations with the District related to the building. In addition, although the concern was expressed by the Application Review Team, the lack of a location for the school was not given as a basis for the denial of the application. Further, we note that the application listed an alternative site and that the application met the CSL requirement regarding identification of a facility. Thus, the proffered evidence is irrelevant.

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). CAB has found that the Charter School Law “requires that the charter school describe a curriculum of some substance.” In re: Environmental Charter School, Docket No. CAB 1999-14 at 14. In addition, CAB has found that the failure to describe how the nontraditional elements of the Charter School will be integrated into the curriculum renders the curriculum insufficient. In re: David P. Richardson Academy Charter School, Docket No. CAB 2001-8. 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.

With respect to the nontraditional elements of the proposed Charter School, the application indicates that the Charter School will provide educational opportunities on the basis of gender. Its curriculum, however, does not indicate any difference in the educational opportunities to be offered to each sex. The curriculum documents do not clearly articulate how gender-based instruction will be applied. As one of the specified purposes of CSLD is ostensibly to provide instruction tailored to the gender of the student, it was incumbent on CSLD to articulate how that would be reflected in the curriculum. Although CSLD indicates that its intent is to focus on gender-based instruction, it has not presented anything in its application except vague goals and guidelines for how it will integrate that concept throughout the core subject curriculum.

The Commonwealth Court in Carbondale Area School District v. Fell Charter School, 829 A.2d 400 (Pa. Cmwlth. Ct. 2003) agreed with the CAB that it is necessary to have a

sufficiently detailed curriculum. The failure to provide a detailed curriculum, which includes a focus on gender-based instruction, is sufficient grounds for denial of the charter. For example, in CSLD's Language Arts Literacy Policy and Practices Implementation Guidelines, the following gender-based literacy pedagogy states that "[g]ender is addressed...through three components: (1) research-based differences in learning, (2) teaching methodology, and (3) environmental influence." R. at 633a. These three components are only very briefly discussed. *See* R. at 633a-636a. Considering that gender-based instruction is a key tenant of this proposed charter school, research-based differences in learning, teaching methodology, and environmental influence must be more thoroughly described in order to show how they will provide a comprehensive learning experience for students.

The lack of gender-based instruction in the curriculum is further demonstrated in the teaching methodology section which states in part that boys should be provided with "reading materials about adventures and heroism giving away to tales of relationship and heroines." R. at 634a. However, the reading lists do not provide any differentiation between genders, as both genders are required to read the same materials. *See* R. 735a-743a.

The same deficiencies exist in the Mathematic Policy and Practice Implementation Guidelines. *See* R. at 778. A brief summary of the three components, research-based differences in learning, teaching methodology, and environmental influences are listed. R. at 785a. Once again, CSLD only provided very cursory explanations of these three components, which appear to be random quotes from multiple resources, with no comprehensive, in-depth discussion of the differences in the way each gender learns and how they should be taught. The same deficiencies exist throughout all of the implementation guidelines. The only way to provide a comprehensive learning experience for students, based upon gender-based instruction, is to have a

comprehensive curriculum which has carefully considered the differences in the way both genders learn and the way they should be taught. Furthermore, this is the only way in which a gender-based charter school can serve as a model to other public schools.

Additionally, the application indicates that community service and leadership development will be an important aspect of CSLD. The application does not, however, indicate how community service and leadership development will be integrated into the curriculum. As with the gender-based instruction, it was incumbent upon CSLD to fully describe the integration of community service and leadership development into the curriculum.

In the curriculum, there are only brief and cursory references to these two themes which are purportedly main tenants of this proposed charter school. Only one community service and leadership activity per grade is present in the curriculum. Furthermore, these activities are not concrete ideas, but appear to be only potential options.

The Policy and Practice Implementation Guidelines were provided in the materials submitted by CSLD and provide guidance on how the curriculum will be implemented. These guidelines exhibit CSLD's failure to develop and integrate the community service and leadership development aspect of their curriculum. The community service portion of the guidelines includes a list of community service themes, by grade, and examples of potential activities that could demonstrate that theme. R. at 958a. However, one activity per grade does not mean that the theme of community service has been incorporated into the curriculum. Furthermore, the activities are only potential activities and have not been established.

The same lack of attention to leadership is also found in the Policy and Practice Implementation Guidelines. R. at 960a. The Leadership Development section is incredibly short and only describes a few vague leadership principles with no explanation as to how these

principles will be taught. The Health, Physical Education, and Safety Policy and Practice Implementation Guidelines state that “[t]he Leadership Development component is directly correlated with the Physical Education Program and curriculum development will continue to be a living document in the sense of expansion and creation of pedagogy that not only promotes and supports physical and emotional health but also builds leadership traits that builds strong character....” R. at 917a-918a. However, similar to the community service theme, there is only one leadership development activity present in the guidelines per grade with only brief descriptions of these potential activities.

In order to comply with the Pennsylvania Commonwealth Court’s remand request, CAB requested that the District and CSLD submit additional information. The District contends, and CAB agrees, that in order to provide integration of community service and leadership, as well as to incorporate gender-based instruction, CSLD must provide a proper curriculum framework addressing gender-based instruction and the themes of community service and leadership. Furthermore, with regard to gender-based instruction, there is a disconnect between the teaching methodology and the research base. The research base points should correspond with the teaching methodology to enable a review of what research has found and what methodologies will address the point. CSLD maintains that its curriculum comports with the core curriculum of Imagine Schools for academic areas. This model provides for what the school will teach and how. For each standard, there is a section for “what students should know” which describes the content and “what students should be able to do” which describes the application of the concept. However, it is not self-evident that such a curriculum design has been utilized in CSLD’s proposed curriculum with regard to gender-based instruction and the themes of community service and leadership. Therefore, proper usage of a curriculum framework could be utilized to

cure the deficiencies in CSLD's application to show proper integration of gender-based instruction and the themes of community service and leadership.

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 CSLD would be a model for other public schools” at 21.

V. Conclusion

CSLD has 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 Community Service Leadership Development Charter School is upheld.

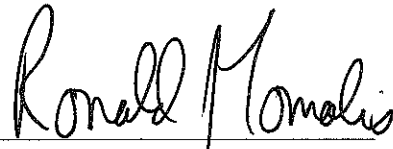
**COMMONWEALTH OF PENNSYLVANIA
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ORDER

AND NOW, this 11th day of March, 2013, based upon the foregoing and the vote of this Board, the appeal of the Community Service Leadership Development Charter School is hereby DENIED¹.

FOR THE STATE CHARTER SCHOOL
APPEAL BOARD



Ronald J. Tomalis
Chairman

¹ At the Board's February 19, 2013 meeting the appeal of the Community Service Leadership Development Charter School was denied by a vote of 6 to 0, with Members Barker, Magnotto, Marks, Munger, Tomalis and Yanyanin voting to deny the appeal. Board Member Lawrence was absent.