

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

STATE CHARTER SCHOOL APPEAL BOARD

In re: Leadership Academy for :
Mathematics and Science :
Charter School :
 : Docket No. CAB 2011-01
 :

OPINION AND ORDER

I. Procedural History

The Leadership Academy for Mathematics and Science Charter School (“LAMS”) filed an appeal with the State Charter School Appeal Board (“CAB”) on or about February 15, 2011. LAMS filed its appeal alleging that three (3) school districts – Pittsburgh School District, Penn Hills School District and Woodland Hills School District - to which it had submitted an application to establish a regional charter school failed to timely act on the application.

On March 4, 2011, the Wilkinsburg School District (“Wilkinsburg”) filed a Petition to Intervene in the LAMS’ appeal. On March 7, 2011, the Pittsburgh School District (“Pittsburgh”) filed an answer to LAMS’ appeal and a Motion to Dismiss. On March 11, 2011, the Woodland Hills School District (“Woodland Hills”) filed an answer to LAMS’ appeal and joined in Pittsburgh’s Motion to Dismiss. On or about March 25, 2011, Penn Hills School District (“Penn Hills”) filed an answer to LAMS’ appeal and a Motion to Dismiss. All parties filed briefs supporting their respective positions. The parties argued their positions on these procedural and jurisdictional issues at CAB’s June 7, 2011 meeting.

During CAB’s June 7 2011 meeting, counsel referenced certain documents that had not been provided to CAB. Thus, by letter dated July 8, 2011, CAB’s counsel asked counsel for the parties to provide copies of the following documents by July 15, 2011:

1. The cover page of the 2009 application;
2. Attachments A (calendar) & K (enrollment form) from the June 2009 application;
3. June 25, 2009 letter from Pittsburgh School District's Superintendent to LAMS rejecting the June 2009 application;
4. Any evidence that Penn Hills School District mailed its denial of the application to LAMS.

Counsel was further advised that any objection to the authenticity of any produced documents had to be provided to CAB by July 15, 2011.

On July 15, 2011, counsel for Penn Hills provided CAB with a copy of his January 12, 2011 letter to Mr. Andre Tucker of LAMS. In that letter, counsel for Penn Hills advised Mr. Tucker that, per the agreement between Penn Hills and the charter applicant, the Board of School Directors considered the LAMS' application at its January 10, 2011 meeting and unanimously passed a resolution denying the application.

Also on July 15, 2011, counsel for Pittsburgh provided CAB with copies of three (3) documents: (1) the cover page of the June 2009 application; (2) the calendar and enrollment form from the June 2009 application; and (3) the June 25, 2009 letter from Pittsburgh's Superintendent to LAMS rejecting the June 2009 application. The date of June 1, 2009 is contained on the cover page of the application. The calendar from the June 2009 application is for the 2009-2010 school year. The enrollment application requests the grade level for the student for the 2009-2010 school year and the application deadline is July 15, 2009. The June 25, 2009 letter from Pittsburgh's superintendent to Mr. Andre Tucker of LAMS advised Mr. Tucker that the June 1, 2009 application was being rejected because the application was untimely for the 2009-2010 school year. The superintendent noted that under the Charter School Law an application must be submitted by November 15 of the year preceding the school year in which the charter school would be established.

On July 15, 2011, LAMS' counsel's requested an extension until July 19, 2011 to provide the documents requested in CAB's July 8, 2011 letter. This request for an extension was granted. On July 19, 2009, LAMS provided an email in which counsel stated that LAMS admitted to the authenticity of the documents submitted by Pittsburgh but that "the inclusion of a sample calendar does not justify summary dismissal of an application for being 'late.' The District should have evaluated the application and advised him that they would consider the charter application for the following school year."

In addition, LAMS' counsel stated in his email that LAMS had no record of the July 12, 2011 letter provided by Penn Hills. LAMS' counsel provided an email that he had received from LAMS on January 11, 2011, in which LAMS had asked its counsel to follow up with the Penn Hills solicitor regarding the vote on January 10, 2010. LAMS' counsel then states that it would be hard to imagine that LAMS would not have contacted counsel if LAMS had received the letter from Penn Hills less than a week later.

II. Discussion

The Charter School Law ("CSL") states that an application to establish a charter school "shall be submitted to the local board of directors of the district where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established" 24 P.S. § 17-1717-A(c). Thus, to establish a charter school to begin operating in the 2009-2010 school year, an applicant must submit its application by November 15, 2008.

The June 1, 2009 application that LAMS submitted to the school districts was clearly filed with the intent to begin operations in the 2009-2010 school year. The calendar that was part of the application was clearly a calendar for the proposed charter school to begin operations in

the 2009-2010 school year. The enrollment form that was part of the application required potential students to state their grade level for the 2009-2010 school year, and the application deadline was July 15, 2009. This is clear evidence that LAMS submitted the June 1, 2009 application with the intent on beginning operations in the 2009-2010 school year. Therefore, pursuant to the CSL, the application LAMS filed with the school districts on June 1, 2009 was untimely.

In addition, Pittsburgh told LAMS in its letter of June 25, 2009, that Pittsburgh was rejecting the application to open a charter school during the 2009-2010 school year because it was untimely for that school year. After being notified by Pittsburgh that it considered the filing of the LAMS application to have been untimely, LAMS took no action regarding Pittsburgh's rejection of the application.

LAMS filed another application with the school districts in November 2010 to establish a charter school to begin operation in the 2011-2012 school year. The November 2010 application was submitted to the school districts 17 months after it had submitted the June 2009 application. The November 2010 application cannot be considered to be a revision and resubmission of the June 2009 application and must be considered a new application. As a new application, the school districts that denied the November 2010 application did so within the time periods enumerated in the CSL. *See*, 24 P.S. 17-1717-A. Therefore, to be eligible to appeal the denial of the application, LAMS was required to obtain signatures of at least two percent (2%) of the residents of each school district or one thousand (1000) residents from each school district, whichever was less. These signatures had to be obtained within sixty (60) days of the denial of the application. 24 P.S. 17-1717-A(i)(2).

III. Conclusion

LAMS did not obtain the required signatures to be eligible to appeal the denial of its charter application by the school districts. Therefore, CAB concludes that it lacks jurisdiction over LAMS' appeal and grants the Districts' Motions to Dismiss.¹

¹ Because the Board voted to grant the Motions to Dismiss the appeal, Wilkinsburg School District's Petition to Intervene is moot.

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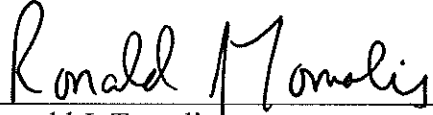
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ORDER

AND NOW, this 30th day of August, 2011, based upon the foregoing and the vote of the Board,² the Districts' Motions to Dismiss for lack of jurisdiction are **GRANTED**.

For the State Charter School Appeal Board



Ronald J. Tomalis
Chairman

² At the Board's July 26, 2011 meeting, the Motions to Dismiss were granted by a vote of 7-0, with members Chairman Ronald J. Tomalis, Mr. Michael G. Akers, Dr. James E. Barker, Mr. Kenneth E. Lawrence, Jr., Mr. Angela J. Marks, Ms. Lee Ann Munger, and Mr. Mitch Yanyanin voting to grant the motions.