

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD

Vision Academy Charter School,	:	
Petitioner	:	
	:	
v.	:	Docket No. 2013-05
	:	
William Penn School District,	:	
Respondent	:	

OPINION

HISTORY

In accordance with the Charter School Law, Act of June 19, 1997, P.L. 225, No. 22, *as amended*, 24 P.S. § 17-1701-A *et seq.* (hereinafter “CSL”), this matter comes before the Pennsylvania State Charter School Appeal Board (hereinafter “CAB”) on the appeal by Vision Academy Charter School (hereinafter “Vision” or “School”) from the written decision adopted on March 26, 2013 (hereinafter “Denial Letter”)¹ by the William Penn School District Board of Directors (hereinafter “District Board”) which denied the Charter School Application (hereinafter “Application”) of Vision.

Vision filed an appeal with CAB on June 26, 2013. The William Penn School District (hereinafter “William Penn” or “School District”) filed a Motion to Dismiss the Appeal on July 22, 2013, with regard to the proposed location of the facility for the charter school. On August 26, 2013, Vision submitted a letter to CAB stating that its appeal would be based on the facility location contained in its original application. On the same date, the School District submitted a letter withdrawing its Motion to Dismiss in light of Vision’s representation.

¹ The District Board voted at its regular business meeting on March 26, 2013 to approve the document prepared by the School District Solicitor, which document set forth the reasons that the District Board denied Vision's Application. However, the letter sent to Vision by the School District Solicitor is actually dated March 27, 2013.

By letter dated September 10, 2013, CAB delegated the matter to a hearing officer to develop the record, to set a schedule for the filing of briefs and proposed findings of fact, and to determine if any other procedural issues needed to be addressed.

After a telephonic conference among counsel for the parties and issuance of an Order dated October 8, 2013, Vision filed a Motion to Open and Supplement the Record on October 30, 2013. William Penn filed its Response in Opposition to the Motion to Open and Supplement the Record on November 13, 2013.

Thereafter, by Order dated February 26, 2014, the hearing officer granted in part and denied in part Vision's Motion to Open and Supplement the Record. The Order directed that Vision's Supplemental Submission filed with the District Board on February 22, 2013, prior to its vote on February 25, 2013, be included in the certified record before CAB. The Order further established deadlines for filing the permitted supplement to the record, stipulations of undisputed facts, and briefs regarding the merits of the appeal. Vision filed its Brief in Support of its Appeal on or about March 25, 2014. The School District filed its Brief in Opposition on April 24, 2014. Vision filed its Reply Brief on May 9, 2014.

On May 14, 2014, the School District filed a Motion to Dismiss Vision's appeal and requested that Vision be directed to submit a new application based on the representation in Vision's Reply Brief that the original facility was no longer available, and that Vision was pursuing a new location. On May 23, 2014, Vision submitted a Response to the School District's Motion to Dismiss and Memorandum of Law in Support of its Response.

On June 11, 2014, counsel for CAB had a conference call with counsel for the parties wherein Vision stated that it would move forward with the new site, the parties agreed to cooperate in order to allow the School District an opportunity to inspect the new location, and a

schedule was set for the filing of documents by the parties with regard to the new site. On July 7, 2014, Vision filed various documents regarding the new site. The School District filed its supplemental submission on July 14, 2014. On July 23, 2014, Vision filed a Supplement in Reply to the District's Objections.

The parties have filed briefs and other documents in support of their respective positions on appeal. They presented their arguments to CAB on September 30, 2014.

For the reasons set forth below, CAB holds that the District Board had insufficient legal grounds to justify its denial of the charter of Vision Academy under the CSL at Section 1717-A(e)(2), 24 P.S. § 17-1717-A(e)(2).

FINDINGS OF FACT

I. Procedural history

1. On or about November 15, 2012, Vision submitted an Application to the School District seeking a charter for the 2013-2014 school year. Joint Stipulation ¶ 1; *see also* Charter School Application Fact Sheet.^{2 3}
2. Counsel for Vision and William Penn agreed to an extension of the 45 day deadline to schedule an initial hearing. Joint Stipulation ¶ 2.
3. The District Board held public hearings on the Application on January 10, 2013 and February 7, 2013. Joint Stipulation ¶¶ 3-4; *see also* N.T. 1/10/2013 at 1-158; N.T. 2/7/2013 at 1-102.⁴
4. During the February 7, 2013 hearing, the School District announced that a vote on Vision's Application would take place at the regularly scheduled Board of Directors meeting on February 25, 2013. Joint Stipulation ¶ 5.
5. On February 22, 2013, Vision sent a Supplemental Submission to the School District. Joint Stipulation ¶ 6.

² "Joint Stipulation" refers to the Stipulation of Undisputed Facts filed by the parties on April 8, 2014.

³ The District Board Record was filed with CAB by William Penn on July 22, 2013 and was supplemented via the hearing officer's 2/26/2014 Order granting in part Vision's motion to supplement the record. William Penn did not identify the Record by Exhibit numbers or letters and did not paginate the record sequentially. The Record before the District Board consists of the following: the Charter School Application Fact Sheet; the November 15, 2012 Charter School Application; the January 10, 2013 public hearing transcript, pp. 1-158; the February 7, 2013 public hearing transcript, pp. 1-102; Vision's February 22, 2013 Supplemental Submission to William Penn; the February 25, 2013 Minutes of the District Board meeting, pp. 1-21; the March 26, 2013 Minutes of the District Board meeting, pp. 1-25; the District Board's March 27, 2013 Denial Letter, pp. 1-5; and Vision's June 25, 2013 Appeal Letter, pp. 1-6. References to documents from the District Board Record will be to the name and date of the document and the page number, for example, "District Board 3/27/2013 Denial Letter, p. ___."

⁴ References to the Notes of Testimony contained in the transcripts from the public hearings before the District Board will be made by referencing "N.T., the date of the public hearing and the page on which the notes of testimony from that public hearing is found, for example, "N.T. [Date] at ___."

6. Vision's Supplemental Submission was not reviewed by the School District. Joint Stipulation ¶ 7.

7. During the District Board's business meeting held on February 25, 2013, two charter school applications were being considered, one of which was Vision's Application. District Board 2/25/2013 Minutes, pp. 2, 3-4.

8. After the District Board's solicitor presented information about the charter school application process and prior to a vote on the other charter school application, one of the District Board members "voiced her opinion that she believes in school choice, but that it should be at the parent's expense. She stated that you don't rob Peter to pay Paul." District Board 2/25/2013 Minutes, p. 4.

9. During the February 25, 2013 Board of Directors meeting, upon Motion, the Board voted unanimously to deny Vision's Application. Joint Stipulation ¶ 8; *see also* District Board 2/25/2013 Minutes, p. 4.

10. Subsequent to the vote, the District Board's Solicitor prepared a draft denial notice outlining the proffered reasons for the denial. Joint Stipulation ¶ 9.

11. The denial notice was reviewed and approved by the District Board during its March 26, 2013 meeting. Joint Stipulation ¶ 10; *see also* District Board 3/26/2013 Minutes, p. 24.

12. In the District Board's denial letter dated March 27, 2013, the District Board offered the following grounds as justification for the denial of Vision's Application:

- i. lack of demonstrated sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held;

- ii. failure by Vision to establish that it can provide a comprehensive learning experience for its students;
- iii. failure by Vision to comply with various sections of the Charter School Law; and
- iv. a perception that Vision would not serve as a model to other public schools.

Joint Stipulation ¶ 11; *see also* District Board 3/27/2013 Denial Letter, pp. 2-5.

13. On April 11, 2013, Vision filed an Emergency Petition to Certify Petition for Appeal with the Court of Common Pleas of Delaware County. Joint Stipulation ¶ 29.

14. Included with the Emergency Petition were 1,400 signatures in support of Vision's right to appeal the denial of its charter application. Joint Stipulation ¶ 30.

15. On May 30, 2013, Judge Chad F. Kenney of the Delaware County Court of Common Pleas entered an Order authorizing Vision to file its appeal with CAB. Official Notice-CAB Docket No. 2013-05.⁵

16. Vision filed an appeal letter with CAB on June 26, 2013. Official Notice-CAB Docket No. 2013-05.⁶

17. On July 22, 2013, the School District filed a Motion to Dismiss the appeal. Official Notice-CAB Docket No. 2013-05; Joint Stipulation ¶ 33.

⁵ While the Joint Stipulation ¶ 31 states that the date is May 31, 2013, the actual Order filed with CAB is dated May 30, 2013. Further citations to the filings in the docket will use the abbreviated citation, "CAB Docket No. 2013-05."

⁶ While the Joint Stipulation ¶ 32 states that the appeal letter was received by CAB on June 25, 2013, the appeal letter was actually filed with CAB on June 26, 2013. Official Notice-CAB Docket No. 2013-05.

18. Vision's Response to the School District's Motion to Dismiss was filed with CAB on August 13, 2013. Official Notice-CAB Docket No. 2013-05; Joint Stipulation ¶ 33.⁷

19. Thereafter, a telephone conference was held with counsel regarding the School District's Motion to Dismiss; and on August 26, 2013, Vision filed a letter stating that its appeal would be based on the facility location identified in its original application. Official Notice-CAB Docket No. 2013-05.

20. On August 26, 2013, the School District filed a letter stating that it would withdraw its Motion to Dismiss based on Vision's correspondence that Vision's appeal would be based on the facility location identified in its original charter application. Official Notice-CAB Docket No. 2013-05.

21. On September 10, 2013 a hearing officer was appointed to address any procedural issues raised in the case and to prepare the case for argument before CAB. Official Notice-CAB Docket No. 2013-05.

22. Following a telephonic pre-hearing conference with counsel, on October 8, 2013, the hearing officer issued an Order permitting the parties to file motions to supplement the record and setting deadlines for briefs. Official Notice-CAB Docket No. 2013-05.

23. On October 30, 2013, Vision filed a Motion to Open and Supplement the Record, to which William Penn responded on November 13, 2013. Joint Stipulation ¶¶ 34-35.

24. On February 26, 2014, the hearing officer issued an Order granting in part and denying in part Vision's Motion to Open and Supplement the Record and establishing deadlines for submissions of briefs on the merits of the appeal. Joint Stipulation ¶ 36.

⁷ While Joint Stipulation ¶ 33 states that Vision's Response to the School District's Motion to Dismiss was filed with CAB on August 12, 2013, it was actually received by CAB on August 13, 2013. Official Notice-CAB Docket No. 2013-05.

25. The February 26, 2014 Order directed the School District to submit Vision's February 22, 2013 Supplemental Submission. Official Notice-CAB Docket No. 2013-05.

26. Thereafter, Briefs on the merits of the Appeal were timely filed by the parties. Official Notice-CAB Docket No. 2013-05.

27. On May 14, 2014, after the filing of Vision's Reply Brief, William Penn filed a Motion to Dismiss the appeal based on Vision's representation in its Reply Brief that the facility location set forth in its original charter application was no longer available. Official Notice-CAB Docket No. 2013-05.

28. On May 23, 2014, Vision filed a Response to William Penn's Motion to Dismiss along with a Memorandum of Law in Support of its Response. Official Notice-CAB Docket No. 2013-05.

29. On June 11, 2014, counsel for Vision and the School District had a conference call with counsel for CAB during which Vision stated it would move forward with the new site, 901 Quarry Street, Darby, PA, as its proposed location; the parties agreed to cooperate regarding the inspection of the location; and each party was directed to file with CAB a written position statement concerning the property. Official Notice-CAB Docket No. 2013-05, June 13, 2014 letter from Ernest N. Helling, Counsel, to counsel for the parties.

30. On July 7, 2014, Vision filed documents related to the new facility location, 901 Quarry Street, Darby Borough, Pennsylvania. Official Notice-CAB Docket No. 2013-05, July 7, 2014 letter to Ernest N. Helling, Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision.

31. On July 14, 2014, the School District filed documents related to the new facility location, 901 Quarry Street, Darby Borough, Pennsylvania. Official Notice-CAB Docket No.

2013-05, July 7, 2014 letter to Ernest N. Helling, Counsel, from David F. Conn, Esquire, counsel for the School District.

32. On July 23, 2014, Vision filed a Supplement in Reply to the School District's Objections to the new facility location, 901 Quarry Street, Darby Borough, Pennsylvania. Official Notice-CAB Docket No. 2013-05, July 23, 2014 letter to Ernest N. Helling, Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision.

II. Application

33. According to Vision's Application, the school intends to serve students in kindergarten through eighth grade. Vision's 11/15/2012 Application, p. 45.

34. During its first year of operation, Vision intends to enroll 200 students in kindergarten through fourth grade adding one more grade each year until it reaches grade eight, or a total of approximately 360 students by its fifth year. Vision's 11/15/2012 Application, pp. 31-32.; N.T. 1/10/2013 at 17-18.

35. Dr. Ertugrul Cubukcu, an Assistant Professor at the University of Pennsylvania who received his PhD from Harvard University in applied physics, and a Founding Member of Vision, testified that Vision hoped to begin its first year with grades Kindergarten through Fourth having 20 students per class with two classes, or 40 students, per grade. N.T. 1/10/2013 at 17-18; *see also* Vision's 11/15/2012 Application, p. 45.

36. The Founding Coalition of Vision is made up of members of the immediate and surrounding communities with backgrounds in finance, marketing, education, effective and objective use of data, students with disabilities, community engagement, and facilities, including for example, several local business owners; the founder and director of Fresh Start, an afterschool program for at-risk youth in the community; a person who works with foster care

placement and has worked with at-risk children and children with special needs in public schools; a university professor; and a research scientist with expertise in data evaluation. Vision's 11/15/2012 Application, pp. 36-37, 47-50, *see* Appendix G-Founding Members Resumes and References.

37. The Founding Coalition of Vision came together through personal connections and commitment to education and identified a need for a school that would improve student outcomes in the School District. Vision's 11/15/2012 Application, pp. 48-50.

38. The Founding Coalition of Vision conducted a variety of community outreach activities including attending community events and a public presentation at the Darby Recreation Center and promoting the fundamentals of the school on its website. Vision's 11/15/2012 Application, p. 47.

39. The Founding Coalition of Vision intends to be actively involved with the community and more broadly the region in order to reach out for volunteers from local university and businesses to support Vision's school mission and programs. Vision's 11/15/2012 Application, p. 36, 48-50.

40. Vision's Application included pre-enrollment forms for over 200 students. Joint Stipulation ¶ 13; Vision's 11/15/2012 Application, p. 47, Appendix E-Pre-enrollment List.

41. Vision's Application included an online petition containing over 500 signatures and letters of support from more than 100 families and business leaders. Joint Stipulation ¶ 17; Vision's 11/15/2012 Application, p. 47, Appendix F-Letters of Support and Petition.

42. Vision's Supplemental Submission included a list of 44 additional pre-enrollment forms and five (5) more letters of support which documents were received by Vision after it had

submitted its November 15, 2012 Application to the School District. Vision's 2/22/2013 Supplemental Submission, Section IV.

43. The School District expressed concern at the January 10, 2013 public hearing that a portion of the pre-enrollment forms did not include the students' grade levels. Joint Stipulation ¶ 14; see *also* N.T. 1/10/2013 at 92-93.

44. At the public hearing, counsel for Vision asked that the School District treat any pre-enrollment forms that did not show eligible students as letters of community support. N.T. 1/10/2013 at 92-93.

45. The underlying mission of Vision Academy is to prepare students from kindergarten through eighth grade to become responsible and articulate students and citizens by using a comprehensive curriculum designed to foster academic success and current technology to build self-reliance. Vision's 11/15/2012 Application, p. 4; N.T. 1/10/2013 at 18.

46. The core philosophy of Vision is that all students can achieve success through the fidelity of implementation of the five research-based pillars which are:

- i. Precise scope and sequence supported through quality curriculum and extended day in a small school environment to ensure mastery of content.
- ii. Calculated delivery model that is refined and improved through the use of data.
- iii. Frequent demonstration of student achievement beyond the test through project-based learning and on-line learning opportunities that will lead each student toward autonomous education advocacy.
- iv. Consistent use of school-wide and individual positive behavior support systems.

- v. Authentic parent engagement that breaks down walls of education disenfranchisement and builds strong home and school relationships.

Vision's 11/15/2012 Application, p. 4.

47. The overarching vision of Vision Academy is to give every child access to a rich, well-rounded, and rigorous curriculum; to help every child understand the value of knowledge as a tool in upward mobility; to provide every child the appropriate amount of time and support for mastery of content; to utilize technology to foster independence in learning and ownership of outcomes; to create a safe and consistent setting that allows for exploration and calls for personal responsibility; and to empower families and students to define goals and create pathways to achieve those goals. Vision's 11/15/2012 Application, p. 4.

48. Vision's Application indicates that it will utilize the Core Knowledge Sequence to deliver its curriculum and to define the ideas and content that will guide its teachers, students, and parents. Joint Stipulation ¶ 18; Vision's 11/15/2012 Application, pp. 5, 12-16, Appendix A-Core Knowledge Sequence.

49. The Core Knowledge Sequence is a research-based curriculum that has been utilized in several settings with good results, *e.g.*, Icon Academy in New York and Newark Charter School in Delaware, including research that pointed to significant academic gains in urban settings. Vision's 11/15/2012 Application, pp. 4-5, 12-14; N.T. 1/10/2013 at 19-21, 31-35.

50. The Core Knowledge Sequence is designed to improve knowledge, language, and skills by scaffolding upon previously learned content, thus ensuring that each student not only grasps the skills necessary for the subject matter, but has attained the cultural literacy that is imperative to understanding the value of the content. Vision's 11/15/2012 Application, pp. 12-16; N.T. 1/10/2013 at 20-21, 27-30.

51. The Core Knowledge Sequence bridges the gap between affluent and less affluent groups, reaching students of diverse backgrounds, including special education and low income students, impacting students across all subject areas by reinforcing content from one discipline in another discipline, which allows a student's understanding of the interdisciplinary nature of school subjects to evolve since students do not encounter content in isolation. N.T. 1/10/2013 at 20-21; 26-35; Vision's 11/15/2012 Application, pp. 12-14; Appendix A-Core Knowledge Sequence; Appendix B-Alignment of the Sequence to Pennsylvania State Standards and Common Core Standards; Vision's 2/22/2013 Supplemental Submission, pp. 1-14 (Core Knowledge Integrated Physical Education Lessons).

52. Vision intends to use the Core Knowledge Sequence to merge skills and content with higher-order thought and problem solving and to integrate content across domains so that, for example, at the same time that students, in social studies, learn about the Renaissance in Europe, they study the literature of Shakespeare, listen to and appreciate music from the Renaissance, study art techniques and media used by the artists of the Renaissance, and learn about the contributions of scientists from the Renaissance. N.T. 1/10/2013 at 28-30; Vision's 11/15/2012 Application, pp. 13-14, 15.

53. Vision also intends to utilize the research-based approach, Project-based Learning, which will allow students to work in groups on projects that will be presented to the broader school and community in "Curriculum Night" events. N.T. 1/10/2013 at 24-25, 29-30; Vision's 11/15/2012 Application, pp. 6, 15-16, 23-24.

54. Project-based Learning will be related to the Core Knowledge Sequence in that projects will be based on the content delivered in class according to the Core Knowledge Sequence. Vision's 11/15/2012 Application, pp. 6, 12-16.

55. Project-based Learning is designed to present real world problems that capture a student's interests and provoke serious thinking as students acquire and apply new knowledge in problem-solving contexts in groups which will help them improve not only academically but also allow them to obtain skills such as collaboration, communication, and presentation thereby helping them prepare for the work place and for life. N.T. 1/10/2013 at 24-25, 29-30; Vision's 11/15/2012 Application, pp. 6, 15-16.

56. As a culminating event for the year, Vision will hold a Curriculum Night for students, parents, and teachers, as well as the broader community, which will allow students to showcase their work on projects such as plays, games, costume making, artwork, and music, all of which are related to what the students learned that year, for example, the Renaissance. N.T. 1/10/2013 at 28-30; Vision's 11/15/2012 Application, pp. 13-14, 15.

57. Vision's Application proposes that the teachers will teach using Direct Instruction ("DI") which has two components: acceleration which relates to scaffolding the curriculum for future grades; and accountability which relates to teacher and student assessment through testing and other data in order to assess performance of both. N.T. 1/10/2013 at 21-22; Vision's 11/15/2012 Application, pp. 5-6.

58. Vision's Application contains a detailed explanation of the Direct Instruction model. Vision's 11/15/2012 Application, pp. 21-24.

59. While the Core Knowledge Sequence details the information to be taught, Vision intends to use McGraw-Hill and Singapore Math to provide the curriculum content in English, Language Arts, Social Studies, and Mathematics which curriculum is recommended by the Core Knowledge Foundation for their fidelity to the Core Knowledge Sequence and their effectiveness

and delivery of Direct Instruction. Vision's 11/15/2012 Application, pp. 14-16; N.T. 1/10/2013 at 21-22, 33-34.

60. Vision's Application contains a detailed description of both the Core Knowledge Sequence and the curriculum for grades Kindergarten through Eighth in social studies, science, art, music, English, math, and physical education, which were adjusted to and comports with applicable Pennsylvania State Learning Standards and Common Core. Vision's 11/15/2012 Application, pp. 5, 12-14, Appendix B-Alignment of the Sequence to Pennsylvania State Standards and Common Core Standards; Vision's 2/22/2013 Supplemental Submission, pp. 1-14 (Core Knowledge Integrated Physical Education Lessons).

61. Vision's Application proposes the use of a "flipped classroom" model in later grades. Joint Stipulation ¶ 19.⁸

62. The "flipped classroom" model incorporates access to instruction outside of the classroom, *i.e.*, at home or in Vision's Extended Day Program, via web videos, computer texts, and similar programs, which model allows students to develop independent learning skills and gives teachers the opportunity to become more engaged in addressing specific student needs during class time by helping them with assigned work rather than delivering a standardized lecture. Joint Stipulation ¶ 20; N.T. 1/10/2013 at 22-24, 97-98; Vision's 11/15/2012 Application, pp. 6-7, 16.

63. The flipped classroom model will not be deployed until Vision's third year of operation, and Vision intends to ease students into the effort gradually either with only a single class or with portions of the class. Vision's 11/15/2012 Application, pp. 16, 24.

⁸ Dr. Cubukcu testified that the flipped classroom would not begin until the 5th grade for certain subjects. N.T. 1/10/2013 at 80. Vision's Application identifies the flipped classroom as being utilized in grades 6-8. Vision's 11/15/2012 Application, pp. 16, 24.

64. The flipped classroom model is flexible and would be utilized for certain subjects, but not for all subjects, for the purpose of encouraging the development of independent learning skills and in order to allow more student-teacher interaction during a class instead of having only a lecture. N.T. 1/10/2013 at 80-82; Vision's 11/15/2012 Application, pp. 16, 24.

65. In response to a question during the public hearing, a Vision representative stated that the flipped classroom model may or may not be used for special education students depending on their needs, recognizing that while technology is often an asset to certain students with special needs, the teacher will be directed to deliver any information and content to a student based on the student's IEP. N.T. 1/10/2013 at 82.

66. Vision's Application describes an Extended Day Program in which students would have access to both computers and teachers, the purpose of which is to allow supplemental time for academic improvement as well as other activities, including extracurricular activities. Joint Stipulation ¶ 21; Vision's 11/15/2012 Application, pp. 7, 24.

67. Vision's Application states that students who do not have access to computers or the Internet at home will be given priority access to computers during the school day and during the Extended Day Program. Vision's 11/15/2012 Application, pp. 24, 38.

68. Vision's Application contains a detailed description of the extracurricular activities planned for the charter school. Vision's 11/15/2012 Application, pp. 38-40.

69. The Application states that no extracurricular activities have been jointly planned with the School District yet, but that Vision seeks opportunity to cooperate with the School District regarding participation in School District extracurricular activities. Vision's 11/15/2012 Application, p. 41.

70. Vision plans to have its school year/calendar coincide with that of the School District. Joint Stipulation ¶ 27; Vision's 11/15/2012 Application, p. 25.

71. The daily hours of operation for students will be approximately 8:30 a.m. to 3:15 p.m., while the faculty and administration hours will be somewhat longer. The Extended Day Program will end at 5:05 p.m. Vision's 11/15/2012 Application, p. 25.

72. Vision intends to make arrangements with the School District for the transportation of its students, including those who participate in the Extended Day Program. Vision's 11/15/2012 Application, p. 75; Vision's 11/15/2012 Application, p. 80.

73. Vision intends to join the National Network of Partnerships Schools ("NNPS") based at Johns Hopkins University, Baltimore, Maryland, for the purpose of having NNPS assist administrators and staff in establishing effective and authentic parent engagement activities through research-based tools designed to give families a true voice in addressing school quality and help them better understand that student achievement is a team effort. N.T. 1/10/2013 at 25-26; Vision's 11/15/2012 Application, p. 7.

74. Brenda Thomas from NNPS spoke at the January 10, 2013 public hearing to explain the NNPS model -- how it involves family and community in the school; the team approach between parents, teachers, students, and community; how it works to improve student learning; and how the model is evaluated to improve the partnership program each year. N.T. 1/10/2013 at 40-51.

75. Vision's Application contains a description of its program for English language learners ("ELL"). Vision's 11/15/2012 Application, pp. 16-19.

76. Vision's Application contains a description of how its program will meet the educational needs of students with disabilities, including the method of testing and instruction. Vision's 11/15/2012 Application, p. 19-21; *see also* N.T. 1/10/2013 at 30-31.

77. Vision's Application contains a description of the assessments to be used by the school to measure student proficiency and achievement, including use of the state mandated assessments and screening tools as well as other methods. Vision's 11/15/2012 Application, pp. 33-36.

78. Vision intends to evaluate students using standardized tests, teacher-made tests, and other informal assessments, utilizing data from all of its assessments to systematically track students' progress with regard to Vision's goals and to assess the extent to which Vision is meeting the educational needs of its students. Vision's 11/15/2012 Application, p. 33-36.

79. These multiple types of assessments will include, *inter alia*, state mandated assessments and screening tools such as the PSSA/PASA; program embedded assessments such as quizzes, tests, student work, writing projects, observation checklists and rubrics, and curriculum projects; other normed testing and screenings such as the DIBELS ("Dynamic Indicators of Basic Literacy Skills") for grades K-3 for screening and diagnostic purposes and MAP ("Measures of Academic Progress") for grades 3-8 to measure academic progress toward grade level standard and as a tool in developing remediation or advancement. Vision's 11/15/2012 Application, pp. 33-34.

80. Vision's Application indicates the School's commitment to comply with No Child Left Behind ("NCLB") legislation and to meet or exceed the state's mandated level of proficiency as defined by the Pennsylvania Department of Education's ("PDE") accountability

system, as well as to demonstrate annual growth in academic achievement. Vision's 11/15/2012 Application, pp. 7-10.

81. Vision's Application includes a list of measurable academic and nonacademic goals and objectives to promote student learning. Vision's 11/15/2012 Application, pp. 7-12.

82. Vision's Application contains a detailed description of the methods it will utilize to assess and evaluate teachers and administrators. Vision's 11/15/2012 Application, pp. 25-32.

83. The process for evaluating teachers will be based on the use of the appropriate PDE forms regarding PDE Performance and Assessment Process. Vision's 11/15/2012 Application, pp. 25-32.

84. To assess and evaluate teachers and administrators Vision will follow a model that defines formative supervision to enhance instructional skills of teachers by providing constructive feedback, acknowledging exceptional practices, and giving direction for professional development. Noncertified staff will be held to the same criteria to establish internal instructional consistency throughout the organization. Vision's 11/15/2012 Application, pp. 25-32.

85. School administrators will set annual goals for student achievement and staff development for each faculty member. The teachers will be evaluated annually on whether or not they have achieved set goals using the data collection from the following sources: formal observations, informal observations, and daily walkthroughs. Vision's 11/15/2012 Application, pp. 26-32.

86. Vision's Application contains a proposed governance structure, including a "School Leader" who would serve under the supervision of the Board of Directors and direct the functioning of the school, including the supervision of administrative, educational, business, and

guidance staff members. Joint Stipulation ¶ 28; *see also* Vision's 11/15/2012 Application, pp. 50-51, 70-74.

87. The Director of Instruction assists the School Leader in instructional program administration and school level operations overseeing the faculty, teaching aids, tutors and afterschool programs. Vision's 11/15/2012 Application, pp. 51, 71-72.

88. Standards of evaluation for faculty members will include evaluations based on student achievement, content delivery, professionalism and content expertise, and team commitment, which standards are outlined in the Application. Vision's 11/15/2012 Application, pp. 26-32.

89. Performance criteria include instructional planning and preparation, classroom environment instructional process, analysis of student learning, and implementation of professional goals. Vision's 11/15/2012 Application, pp. 26-32.

90. Administrative professionals, such as the Director of Instruction, School Nurse, Special Education Coordinator, etc., will be evaluated based on the job description presented at employment, the academic performance of aligned areas when applicable, and evaluations from staff members as well as the School Leader. Vision's 11/15/2012 Application, pp. 26-32.

91. Vision's Application contains the evaluation rubric for the School Leader, which will be conducted annually by Vision's Board. Vision's 11/15/2012 Application, pp. 30-31.

92. At the time of the January 10, 2013 public hearing, no person had been identified for any teaching or other administrative position, and no member of the Board of Directors would be utilized for such positions in the school. N.T. 1/10/2013 at 87-88.

93. Vision's Application contains a detailed description of the methods it will utilize for self-assessment and evaluation to ensure that the school is meeting its stated mission and

objectives. Vision's 11/15/2012 Application, pp. 25-26, Appendix C-Building Charter School Quality Performance Management Framework.

94. Vision intends to hold the school accountable to parents of children attending the school through an annual survey asking for their feedback regarding their and their children's experience with the school, through the NNPS, and through its communication to parents.

Vision's 11/15/2012 Application, pp. 31-32.

95. Vision recognizes that parental involvement is a crucial factor in the school's success and seeks parental involvement on many levels, including its founding, the evaluation of teachers, school governance, their children's performance and achievement, school performance, and public outreach to the community. Vision's 11/15/2012 Application, pp. 37-38.

96. Vision has established a formal relationship with the community through its Board by creating a Community Advisory Committee which contains at least two Board members and members from the community at large, and it hopes to have an active relationship with the community in order to involve community members in the school as volunteers and participants with the school. Vision's 11/15/2012 Application, pp. 36, 50, Appendix M-Current Community Advisory Committee Members.

97. Vision's Community Advisory Committee includes members from the community for the purpose of further developing a relationship between the school and the surrounding community. Vision's 11/15/2012 Application, pp. 36-37, 47, 155-156, Appendix M-Community Advisory Committee Members.

98. Ten of the sixteen Community Advisory Committee Members live inside the School District. N.T. 1/10/2013 at 77-78; Vision's 11/15/2012 Application, pp. 36-37, 47-50, Appendix M-Community Advisory Committee Members.

99. The Community Advisory Committee members who are from outside the school district were picked because they could provide Vision with advice regarding charter schools, education, and other matters relevant to improving the educational and learning experience which Vision intends to provide to its students. N.T. 1/10/2013 at 77-79.

100. Vision also intends to evaluate community involvement by tracking attendance at meetings of its Board, volunteer work including presentations at the school, invitations for students to participate in community events, financial contributions, and services rendered. Vision's 11/15/2012 Application, p. 26.

101. Vision proposes an education program different from the School District's education program in the following respects:

- i. Vision will provide a research-based curriculum, Core Knowledge Sequence, supported by data driven instruction with positive behavior support systems, including civic responsibility to school and community, to accelerate learning for students.
- ii. Vision proposes a Kindergarten through Eighth Grade configuration that is unique to this School District in order to help students move from elementary to middle school without suffering the sharp drop in achievement that usually occurs in a transition year.
- iii. Vision proposes to use technology to drive learning in order to help the students become autonomous learners with the capacity to advocate for their own education as they move through the transition to high school in the School District.

- iv. Vision intends to engage parents as active partners in education through research-based action teams and multiple opportunities for interaction with their children's teachers and their children in the education setting.
- v. Vision intends to establish consistent expectations for students around learning, behavior, and civic responsibility to school and community that spans their 9 years of enrollment.
- vi. Vision intends to have a smaller classroom setting with a 20:1 student teacher ratio and an overall student to staff ratio of 8:1, both of which are lower than the School District.

Vision's 11/15/2012 Application, pp. 44-45; N.T. 1/10/2013 at 37-38, 124.

102. Vision's Application describes how it will market the school and recruit students and their families to the school; its admissions policy, including admission for special education students; and its timetable for and manner of admitting students. Vision's 11/15/2012 Application, pp. 63-66.

103. The Vision admissions policy will adhere to the requirements of state and federal law and the federal Child Find requirements and will be open to all age-appropriate students from the School District on a first-come, first-served basis, utilizing a random lottery if application exceeds spaces for admission. Vision's 11/15/2012 Application, pp. 64-66; N.T. 1/10/2013 at 75-77.

104. Vision intends to seek dual certified teachers in both subject and special education areas. Further, it will comply with all requirements for special education and will procure related services on an as needed basis from qualified providers in the area; and due to its small size, Vision will utilize the RTI model but will always respect a parent's wishes for evaluation, as

required by law. Vision's 11/15/2012 Application, p. 20; Vision's 2/22/2013 Supplemental Submission, p. 2.

105. Vision's Application describes how it will hire teachers, administrators and other school staff and contains its Personnel Policy Manual. Vision's 11/15/2012 Application, pp. 66-74, Appendix J-Personnel Policy Manual.

106. All Vision teachers will be required to exceed Act 48 requirements and will be provided traditional Act 48 training, certification and additional training specifically on Core Knowledge Sequence. N.T. 1/10/2013 at 72-73; Vision's 11/15/2012 Application, pp. 68-69.

107. All Vision employees will be required to comply with federal requirements regarding employment eligibility for work and state requirements such as fingerprinting, submission of required teaching credentials and certification, Child Abuse Index, and Criminal Record Statement. Vision's 11/15/2012 Application, Appendix J-Personnel Policy Manual, p. 108.

108. Vision expects that in its first year of operation the professional educational staff will comprise 27 staff members, including one School Leader, one Director of Instruction, one nurse, 10 classroom teachers, 12 specialized faculty (including Special Education), and 5 administrative, custodial, nurse, or teacher's aides. Vision's 11/15/2012 Application, pp. 67, 70-74, Appendix I-Start up and Five-Year Operating Budget, p. 5 (personnel salaries).

109. Vision's Application describes what professional development opportunities will be available to teachers and other staff. Vision's 11/15/2012 Application, pp. 66-69.

110. Vision will be governed by a Board of Directors comprising a minimum of five (5) members and a maximum of eleven (11) members, including within three months of opening

at least one parent/guardian of a student enrolled in the School. Vision's 11/15/2012

Application, pp. 50-55, Appendix H- Board of Directors Bylaws.

111. During the first term, the Founding Coalition will make up the Board of Directors of Vision; thereafter, Board Members will be elected every two years. Vision's 11/15/2012 Application, pp. 50-55; Vision's 11/15/2012 Application, pp. 48-50, Appendix G-Founding Members Resumes and References.

112. The majority of the Founding Coalition lives inside the School District. N.T. 1/10/2013 at 79.

113. The School Leader of Vision will be a nonvoting, ex officio member of the Board; a student representative to the Board, elected by the student body annually, may attend Board meetings in a nonvoting capacity; and a faculty representative to the Board, elected by the teaching staff, will attend Board meetings in a nonvoting capacity. Vision's 11/15/2012 Application, p. 53.

114. The Application includes a Student/Parent Handbook which defines the rights and responsibilities of student and parent members of the school community, the standards for acceptable conduct of students, and the consequences for failure to meet those standards. Vision's 11/15/2012 Application, pp. 74-75, 121-153 Appendix K-Parent and Student Handbook (Code of Conduct).

115. The School will obtain all necessary medical, liability, life and other insurance and understands the requirement that it provide medical insurance coverage for employees that is the "same as" the insurance provided to employees in the School District. Vision's 11/15/2012 Application, pp. 60-61.

116. Michael Whisman, CPA, founder of Charter Choices, Inc., a firm that works with more than two dozen charter schools in Pennsylvania, developed Vision's start-up and operating budgets. Vision's 11/15/2012 Application, pp. 56-59; N.T. 1/10/2013 at 35-38, 59-62, 73-74; Vision's 2/22/2013 Supplemental Submission, p. 4.

117. Vision included in its Application its start-up and five-year operating budgets, cash flow projections, and a description of the implementation of required financial procedures. Vision's 11/15/2012 Application, pp. 56-59, Appendix I-Start Up and Five-Year Operating Budget; N.T. 1/10/2013 at 35-38.

118. The projected budget lists revenues by source and includes state general-purpose aid and state and federal program revenues; however, the primary source of the revenue is calculated on the Estimated State Aid based on Average Daily Attendance based upon William Penn's 2012-2013 budget. Vision's 11/15/2012 Application, pp. 56-59, Appendix I-Start Up and Five-Year Operating Budget; N.T. 1/10/2013 at 35-38.

119. Vision has budgeted for a 20 to 1 student/teacher population, in year one and budgeted for regular teachers, reading and math specialist, world languages teacher, ELL, music teacher, art teacher, technology teacher, gym teacher, guidance counselor, two special education teachers, a special education director, two teacher aides, and a Director of Instruction. N.T. 1/10/2013 at 37-38; Vision's 11/15/2012 Application, Appendix I-Start Up and Five-Year Operating Budget.

120. Vision will have independent audits of financial statements annually, which audits will be reviewed by the School Leader and submitted to Vision's Board of Trustees for review, and will file all appropriate forms with the appropriate federal and state agencies. Vision's 11/15/2012 Application, p. 32.

121. At the January 10, 2013 public hearing, Mr. Whisman answered the School District's questions related to budget and finance. N.T. 1/10/2013 at 59-61, 73-74.

122. At the February 7, 2013 public hearing, Mr. Whisman requested an opportunity to respond to budget questions raised by the School District during that hearing, but he was not given the chance to respond. N.T. 2/7/2013 at 36.

123. At the January 10, 2013 public hearing, the following seven (7) witnesses testified on behalf of Vision:

- i. Alaadin Taskin, President of Vision's Founding Coalition, who spoke about the need for the school and about the members of the Founding Coalition, their abilities and contributions to the school, N.T. 1/10/2013 at 7-15;
- ii. Leslie Lewis, Vice President of Vision's Founding Coalition, N.T. 1/10/2013 at 15-17;
- iii. Dr. Ertugrul Cubukcu, Education Chair of Vision's Founding Coalition, who is a professor at the University of Pennsylvania and who led the initial presentation about Vision's educational goals and mission, N.T. 1/10/2013 at 17-26, 33, 71-74, 80-81;
- iv. Ms. Harris, a representative of the Director of Instruction at Newark Charter School, who described the Core Knowledge Sequence Model, N.T. 1/10/2013 at 26-35, 70, 72-73, 75, 79, 81-85, 95-97;
- v. Michael Whisman, CPA, founder of Charter Choices, Inc., who prepared and discussed Vision's budget and financial statements, N.T. 1/10/2013 at 35-38, 59-62;

vi. Bob Linn, an architect who spoke about the facility where Vision intended to locate, N.T. 1/10/2013 at 38-40, 62-68⁹; and

vii. Brenda Thomas, from the National Network of Partnership Schools, Johns Hopkins University, who spoke about the NNPS model to promote family and community involvement in the school's educational program, N.T. 1/10/2013 at 40-51, 74, 75.

124. At the January 10, 2013 public hearing, nine (9) members of the public expressed support for the charter school, including two local mayors, a pastor from the community, and a student from the School District who did not believe he was getting a sufficient education in the School District and wanted the choice of a charter school. N.T. 1/10/2013 at 51-52, 52, 54-55, 55-57, 57-58, 104, 105, 126-128, 129, 137-139.¹⁰

125. At the February 7, 2013 public hearing, eight (8) members of the public expressed support for the charter school. N.T. 2/7/2013 at 38-41, 41-44, 48-50, 50-52, 58-59, 59-61, 74-77, 82-84.¹¹

126. In its Application, Vision identified 404 Industrial Park Drive, Yeadon, Pennsylvania, as the location for the proposed charter school. Joint Stipulation ¶ 22.¹²

⁹ The information provided by Mr. Linn was related to the site identified in the Application, which site is now unavailable for Vision's use.

¹⁰ The Stipulation of Undisputed Facts filed by the parties provides: "[t]hree members of the public spoke to express their support for Vision during the January 10, 2013 hearing." Joint Stipulation ¶ 15. However, a review of the record reveals that nine members of the public spoke in support of the School.

¹¹ The Stipulation of Undisputed Facts filed by the parties provides: "[f]ive additional members of the public spoke in support of Vision at the February 7, 2013 hearing." Joint Stipulation ¶ 16. However, a review of the record reveals that eight members of the public spoke, although it does appear that two of those persons -- the student and Ms. McGirth -- spoke at the January 10, 2013 hearing as well.

¹² Because the proposed site of 404 Industrial Park Drive, Yeadon, PA, is no longer available to Vision, there will be no further Findings of Fact or Discussion related to the suitability of that site.

127. The facility at 404 Industrial Park Drive is no longer available to Vision. Official Notice-CAB Docket No. 2013-05, Vision's Reply Brief in Support of Its Appeal, May 9, 2014, p. 5 and Exhibit A.

128. Vision has identified a new location for the School at 901 Quarry Street, Darby Borough, Pennsylvania, and has provided a Proposal of Lease Terms for 901 Quarry Street, dated March 1, 2014, outlining the terms and conditions under which Vision proposes to lease the property. Official Notice-CAB Docket No. 2013-05, July 7, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Attachment.

129. In the Lease Proposal the owner of the property is identified as Quarry Equities GP, LLC, an affiliate of MinSec Properties LLC. Vision has also provided a letter dated March 25, 2014, to Al Taskin, President of Vision's Founding Coalition, from Sean McDougall, Managing Member of MinSec Properties, stating that Vision is permitted/authorized to use 901 Quarry Street in its application for a school charter, that he has in his possession a Letter of Intent from Vision, and that he is amiable to work out a deal with the terms proposed. Official Notice-CAB Docket No. 2013-05, July 7, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Attachment.

130. The Lease Proposal includes a picture of the property and states that it has 80,000 square feet of rentable space, but only 20,000 square feet of rentable space on the first floor. Additionally, the Lease Proposal sets out the base rent proposed for the first three years, provides for renewal options, and describes other terms and conditions of the proposed agreement. Official Notice-CAB Docket No. 2013-05, July 7, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Attachment.

131. The Lease Proposal states that the landlord will install a building and a commercial kitchen and offers Vision the opportunity to purchase meals for students from a kitchen operator. The Lease Proposal also includes the relevant zoning information. Official Notice-CAB Docket No. 2013-05, July 7, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Attachment.

132. Vision has presented a Revised Budget identifying costs and expenditures associated with the new facility incorporated into the overall budget. Official Notice-CAB Docket No. 2013-05, July 23, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision with attachment.

133. Vision recognizes that it must comply with all requirements under the law to ensure that the space will be appropriate for the education of students and to this end has obtained a commitment from the landlord to make certain and necessary modifications to the facility. Official Notice-CAB Docket No. 2013-05, July 23, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision.

CONCLUSIONS OF LAW

1. CAB has jurisdiction in this matter under the CSL. 24 P.S. § 17-1717-A(f) and (i)(1).
 2. A local board of school directors shall evaluate a charter school application based on criteria including, but not limited to, the following:
 - 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 [pursuant to the CSL].
 - 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).
3. The local board of school directors must hold at least one public hearing, under the Sunshine Act,¹³ on the provisions of the charter application. 24 P.S. § 17-1717-A(d).
 4. The local board of school directors must take formal action approving or denying a charter at a public meeting pursuant to the Sunshine Act. 24 P.S. § 17-1717-A(e)(4).

¹³Act of July 3, 1986, P.L. 388, No. 84, *as amended*, 65 Pa. C.S.A. § 701 *et seq.*

5. The local board of school directors must give to the applicant written notice of the denial of a charter application, which shall clearly state the grounds for the denial, including a description of deficiencies in the application. 24 P.S. § 17-1717-A(e)(5).

6. The District Board complied with the procedural requirements of the CSL set forth at section 1717-A, 24 P.S. § 17-1717-A. Findings of Fact 1-12.

7. Vision's Application may not be denied on the basis of the financial impact that a new charter school would have on a school district. *Keystone Central School District v. Sugar Valley Concerned Citizens*, 799 A.2d 209, 218 n. 14 (Pa. Cmwlth. 2002).

8. CAB applies a *de novo* standard of review to the District Board's determinations. 24 P.S. § 17-1717-A(i)(6); *West Chester Area District Board v. Collegium Charter School*, 812 A.2d 1172, 1180 (Pa. 2002).

9. When entertaining appeals from a decision of the local board of school directors, CAB shall give due consideration to the findings of the local board of school directors while making an independent determination as to the merits, and shall specifically articulate its reasons for agreeing or disagreeing with the local board of school directors. 24 P.S. § 17-1717-A(i)(6); *West Chester Area District Board, supra*, 812 A.2d at 1180.

10. Vision's Application demonstrates sustainable support in the aggregate as required by section 1717-A(e)(2)(i), 24 P.S. § 17-1717-A(e)(2)(i). Findings of Fact 36-44, 94-100, 123-125, 129.

11. Vision's Application establishes that it has the capability, in terms of support and planning, to provide a comprehensive learning experience to students as required by section 1717-A(e)(2)(ii), 24 P.S. § 17-1717-A(e)(2)(ii). Findings of Fact 33-36, 45-68, 73-91, 93-97, 99-101, 104, 106, 108, 119.

12. Vision's Application meets the requirements of section 1717-A(e)(2)(iii), 24 P.S. § 17-1717-A(e)(2)(iii), which are: (a) the extent to which the Application considers the information requested in section 1719-A, 24 P.S. § 17-1719-A; and (b) the extent to which the Application conforms to the legislative intent outlined in section 1702-A, 24 P.S. § 17-1702-A. Findings of Fact 45-68, 69-74, 76-81, 82-91, 92, 96-100, 102-107, 108-115, 116-122, 126-133.

13. Vision's Application demonstrated that the proposed charter school may serve as a model for other public schools as required by section 1717-A(e)(2)(iv), 24 P.S. § 17-1717-A(e)(2)(iv). Findings of Fact 33-36, 45-68, 73-91, 93-97, 99-101, 104, 106, 108, 119.

14. The record in this appeal supports the granting of Vision's Application for a charter under the CSL. 24 P.S. § 17-1717-A(e)(2); Findings of Fact 1- 133.

DISCUSSION

I. STANDARD OF REVIEW

The CSL provides:

In any appeal, the decision made by the local board of directors shall be reviewed by [CAB] on the record as certified by the local board of directors. [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).

CAB applies a *de novo* standard of review when entertaining appeals from a District Board's denial of a charter school application under section 1717-A(i)(6), 24 P.S. § 17-1717-A(i)(6). *West Chester Area District Board v. Collegium Charter School*, 812 A.2d 1172, 1180 (Pa. 2002). That means CAB considers the findings of the District Board, articulates its agreement or disagreement with those findings, and makes an independent determination as to the merits of the application. *Id.*, 812 A.2d at 1179 n.9, 1180. In other words, while giving due consideration to the vote of the local board, CAB must independently review the record in accordance with the requirements of the CSL and may substitute its own findings and independent judgment for that of the local board.

Section 1717-A(e)(2) of the CSL provides that an 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 [pursuant to the CSL].
- (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-A¹⁴ and conforms to the legislative intent outlined in section 1702-A.¹⁵
- (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).

II. FINANCIAL CONSIDERATIONS FOR DECISION

Vision contends that that the District Board improperly denied its charter for financial reasons. Vision's Brief, p. 25. Specifically, Vision alleges that during the February 25, 2013 public meeting one of the District Board members stated that she thought school choice should not be at the public expense. In the minutes, it states that she "voiced her opinion that she believes in school choice, but that it should be at the parent's expense. She stated that you don't rob Peter to pay Paul." District Board 2/25/2013 Minutes, p. 4. It appears in the Minutes that immediately after this comment, the votes were taken on the charter applications. Both applications were denied. *Ibid.*

¹⁴ See Footnote 20, *infra*, which sets forth the specific provisions of section 1719-A.

¹⁵ Section 1702-A of the CSL outlines the legislative intent and provides:

It is the intent of the General Assembly, in enacting this article, to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structured as a method to accomplish all of the following:

- (1) Improve pupil learning.
- (2) Increase learning opportunities for all pupils.
- (3) Encourage the use of different and innovative teaching methods.
- (4) Create new professional opportunities for teachers including the opportunity to be responsible for the learning program at the school site.
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- (6) Hold the school's establish under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

24 P.S. § 17-1702-A.

The School District contends that the Board member's comment was made with respect to the other charter school application, not Vision's; and therefore, the comment should not be considered as applicable to Vision's Application. School District's Brief at 3, n. 1. This reasoning is rejected. Certainly, if the District Board member felt that way about one of the Applications, there is no reason to think she didn't apply the same thinking to the other. Additionally, the School District argues that even if the comment could be construed to be related to Vision's Application, seven other District Board members voted to deny the Application and to adopt the denial letter which contained the reasons for the denial of Vision's. School District's Brief at 13-14. The School District contends that Vision's Application was not denied for financial reasons, but rather for the reasons articulated in the denial letter approved by those seven other District Board members in its March 26, 2013 meeting. *Ibid.*

It is well-settled that the financial impact on a School District is an improper basis for denying a charter application. *Keystone Central School District v. Sugar Valley Concerned Citizens*, 799 A.2d 209, 218 n. 14 (Pa. Cmwlth. 2002); *In re: Chester Charter School for the Arts*, CAB Docket No.-2012-02 at 6. To the extent Vision's Application was denied by the District Board due to financial considerations, such consideration would be improper and cannot support the District Board's actions. However, it is impossible to tell from the record whether any of the other District Board members were impacted by the one District Board member's statement regarding public funding for charter schools. The CSL requires a local school board to put in writing its "reasons for denial, including a description of deficiencies in the application...." 24 P.S. § 17-1717-A(e)(5). The School District did this. Nothing related to the public funding of charter schools was listed as a reason for the denial of Vision's Application in the District Board's written letter of denial. *See* District Board 3/27/2013 Denial Letter, pp. 1-5. Therefore,

each of those reasons for denial listed in the District Board's written notice will be considered and addressed below.

III. GROUNDS FOR DENIAL OF THE APPLICATION

The March 27, 2013 denial letter of the District Board offered the following grounds as justification for the denial of Vision's Application:

- (1) lack of demonstrated sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held;
- (2) failure by Vision to establish that it can provide a comprehensive learning experience for its students;
- (3) failure by Vision to comply with various sections of the Charter School Law; and
- (4) a perception that Vision would not serve as a model to other public schools.

Joint Stipulation ¶ 11; *see also* District Board 3/27/2013 Denial Letter, pp. 2-5. Each of these four areas of alleged deficiencies will be addressed in turn.

A. Demonstrated, Sustainable Community Support

The first factor is whether the applicant showed "demonstrated, sustainable support for the charter school plan by teachers, parents and community members and students...." 24 P.S. § 17-1717-A(e)(2)(i). Section 17-1717-A(e)(2)(i) requires that the community support be shown in the application document or by comments received at the public hearings. In addition, section 1719-A sets forth what is to be contained in the application, including information on the manner in which community groups will be involved in the charter school planning process. 24 P.S. § 17-1719-A. While the legislature has not defined what is meant by "community" or "community involvement," CAB has concluded in past decisions that "sustainable support" means support

sufficient to sustain and maintain the proposed charter school as an ongoing entity. *In re Independence Charter School Initiative*, CAB Docket No. 2000-2 at 11.

The *Independence Charter School* decision also enunciated the following general principles for considering whether an applicant has the requisite support required by the CSL:

... the degree of support for the proposed charter school plan is relevant, not the degree of opposition....

... the indicia of support are to be measured in the aggregate rather than by individual categories. The statutory listing of “teachers, parents, other community members and students” indicates the groups from which valid support for the charter school plan can be demonstrated. It does not appear that the General Assembly intended this list to be mutually exclusive or exhaustive. Failure to demonstrate strong support in any one category is not necessarily fatal to an application. Nevertheless, a reasonable amount of support in the aggregate must be demonstrated.

Independence Charter School at 11-12. The Commonwealth Court has agreed with CAB’s statement and application of the above principles. See *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa. Cmwlth. 2003), citing *Brackbill v. Ron Brown Charter School*, 777 A.2d 131, 138 (Pa. Cmwlth. 2001)(quoting and approving CAB’s interpretation proffered in that case), *petition for allowance of appeal denied*, 821 A.2d 588 (Pa. 2003).

Indeed, Commonwealth Court:

has determined that the emphasis of Section 1717-A(e)(2)(i) is on “the applicant showing that the charter school enjoys reasonably sufficient support from the community, not showing some minimum level of support from each of the more discrete groups listed.”

Central Dauphin School District v. Founding Coalition of the Infinity Charter School, 847 A.2d 195, 200 (Pa. Cmwlth. 2004), citing *Brackbill v. Ron Brown Charter School*, *supra*.

In its denial letter, the District Board claimed: that Vision failed to show demonstrable support for the charter school because many of the over 250 Pre-enrollment Forms did not identify the grade or eligibility of the student to be enrolled; that despite Vision’s request to treat

any pre-enrollment forms that failed to identify the grade or eligibility of a student as evidence of community support, the District Board could not do so because the forms failed to provide sufficient information for them to be evaluated; that the letters of support from members of the Founding Coalition could not be viewed as letters of support from the community; that only eight members of the public expressed support for the Application at the two public hearings and none identified themselves as teachers; and that more people spoke against the Application than for it at the public hearings. District Board 3/27/2013 Denial Letter, pp. 2-3.

After reviewing the record, CAB disagrees with the findings of the School District that the evidence produced by Vision was insufficient to establish demonstrated, sustainable support in the aggregate for the School. The record shows that Vision produced over 250 pre-enrollment forms which exceeds the School's projected enrollment of 200 students for the first year. Vision's 11/15/2012 Application, pp. 47 and Appendix E; Vision's 2/22/2013 Supplemental Submission, Section IV. Further, Vision's Application included an online petition containing over 500 signatures and letters of support from more than 100 families and business leaders from the community. Vision's 11/15/2012 Application, p. 47, Appendix F-Letters of Support and Petition. The fact that some of the pre-enrollment forms failed to contain a child's eligibility does not require them to be discounted as support. Rather, the petitions, letters and pre-enrollment forms demonstrate a reasonable amount of support sufficient to sustain and maintain the proposed charter school as an ongoing entity.¹⁶

¹⁶ In prior decisions CAB has found as sufficient evidence of sustainable support pre-enrollments ranging from 34% *In re: William Bradford Academy Charter School*, CAB Docket No. 1999-8; to 47% *In re: Vida Charter School*, CAB Docket No. 2009-2; and to 63% in *Carbondale Area School District v. Fell Charter School*, *supra*, 829 A.2d at 405.

Moreover, a review of the transcript of the public hearings establishes that more people spoke in favor of the Application than was suggested by the District Board in its denial letter. At the January 10, 2013 public hearing, in addition to the seven (7) people who presented Vision's Application, mission, curriculum, budget, and parental and community involvement information, nine (9) members of the public expressed support for Vision itself or for choice in education by urging the District Board to give the charter school a chance, including two mayors, a pastor, other community members, and a student from the School District. N.T. 1/10/2013 at 51-52, 52, 54-55, 55-57, 57-58, 104, 105, 126-128, 129, 137-139. At the February 7, 2013 public hearing, after the School District presented its witnesses, eight (8) members of the public expressed support for the charter school. N.T. 2/7/2013 at 38-41, 41-44, 48-50, 50-52, 58-59, 59-61, 74-77, 82-84. While it appears to be correct that no one expressed support for the charter school at the February 25, 2013 meeting of the District Board at which meeting the vote was taken to deny Vision's Application, there is no transcript from that meeting, and the Minutes therefrom do not reflect whether or not public comment on Vision's Application was specifically invited by the District Board. District Board 2/25/2013 Minutes, pp. 3-4.¹⁷ Even if public comment had been solicited at the February 25, 2013 meeting, the fact that no one spoke in support of the Application is insufficient to show a lack of demonstrable community support in light of the other evidence in the record.

Additionally, Vision's Application states that it intends to establish a formal relationship with the community through its Board by means of its Community Advisory Committee. Vision had already established the Community Advisory Committee with ten of the sixteen members

¹⁷ The Minutes reflect that one person asked a question about the process for the charter school applications after which the solicitor described the process. Then the votes were taken. District Board 2/25/2013 Minutes, p. 3.

from inside the School District, *i.e.*, the community. According to the Application, this group will be actively involved with the School. Vision seeks to have an active relationship with the community; to involve community members in the school as volunteers and participants with the school; and to evaluate community involvement by tracking attendance at meetings of its Board, volunteer work including presentations at the school, invitations for students to participate in community events, financial contributions, and services rendered. Vision's 11/15/2012 Application, pp. 36-37, 47-50, 155-156, Appendix M-Community Advisory Committee Members.

Finally, with regard to parent involvement, Vision encourages parents to participate in their children's education, to take an active role in school activities, to share their knowledge of their children with teachers and counselors, and to give staff feedback on their children's experience and progress. One of Vision's five research-based pillars of its core philosophy is that all students can achieve success through the fidelity of implementation of authentic parent engagement that breaks down walls of education disenfranchisement and builds strong home and school relationships. Vision will provide a variety of avenues for parents, community members and students to offer input on issues concerning the School, as well as offer parents every opportunity possible to participate in school activities and events. By joining the National Network of Partnerships Schools ("NNPS") Vision intends to give families and the community a true voice in addressing school quality and help them better understand that student achievement is a team effort. N.T. 1/10/2013 at 25-26; Vision's 11/15/2012 Application, p. 7

Vision has presented enough indicia of support in the aggregate to establish that there is sustainable support for the charter school plan. Failure to demonstrate strong support by teachers is not fatal to Vision's Application. Further, as stated above, comments in opposition to the

Application are not relevant, and the District Board incorrectly gave weight to that factor in its denial letter. Based upon its review of the record, CAB finds that Vision has demonstrated a reasonable amount of sustainable support in the aggregate for the charter school plan and that this prong of the statutory criteria has been met. Accordingly, the District Board's decision to the contrary is rejected as not supported by the record.

B. The Capability to Provide Comprehensive Learning Experiences to Students

The second factor to be considered under the CSL is whether the applicant demonstrated that the school is capable of providing the comprehensive learning experience for its students that as proposed. 24 P.S. § 17-1717-A(e)(2)(ii). The District Board denied the Application, stating that Vision failed to establish that it could provide a comprehensive learning experience for its students. Its decision rested on concerns that Vision's proposed curriculum/program, the Core Knowledge Sequence, was not as well-rated as those offered by the School District; that Vision failed to include any curriculum for physical education in its Application; that there is no research-based data on the flipped classroom model that Vision proposes to use and that with regard to the use of the flipped classroom model, the Application did not provide detail on what Vision would do about students without computer equipment or special education students in need of direct instruction; that the teacher evaluation system proposed by Vision was not of the same caliber as the School District's; and that the teacher-trainer model proposed in the Application has not proven effective. District Board 3/27/2013 Denial Letter, p. 3.

It should be noted that there is no requirement under the CSL that a charter school use a "better rated" program than that utilized by the school district. The only relevant question is whether the applicant has demonstrated that it is capable of providing to its students the

comprehensive learning experience it proposes. After reviewing the record, CAB disagrees with the District Board's conclusion that Vision failed to satisfy this second criterion.

Vision's Application states that its underlying mission is to prepare students in Kindergarten through Eighth Grade to become responsible and articulate students and citizens by using a comprehensive curriculum designed to foster academic success and current technology to build self-reliance. Vision's 11/15/2012 Application, p. 4. Vision's overarching vision is to give every child access to a rich, well-rounded, and rigorous curriculum; to help every child understand the value of knowledge as a tool in upward mobility; to provide every child the appropriate amount of time and support for mastery of content; to utilize technology to foster independence in learning and ownership of outcomes; to create a safe and consistent setting that allows for exploration and calls for personal responsibility; and to empower families and students to define goals and create pathways to achieve those goals. Vision's 11/15/2012 Application, p. 4. Vision believes that all students can achieve success through the fidelity of implementation of the five research-based pillars outlined in its Application.¹⁸ Vision's 11/15/2012 Application, p. 4; N.T. 1/10/2013 at 18.

¹⁸ The five pillars are:

1. Precise scope and sequence supported through quality curriculum and extended day in a small school environment to ensure mastery of content.
2. Calculated delivery model that is refined and improved through the use of data.
3. Frequent demonstration of student achievement beyond the test through project-based learning and online learning opportunities that will lead each student toward autonomous education advocacy.
4. Consistent use of school-wide and individual positive behavior support systems.
5. Authentic parent engagement that breaks down walls of education disenfranchisement and builds strong home and school relationships.

Vision's 11/15/2012 Application, p. 4.

Vision's Application indicates that its curriculum will be delivered via the Core Knowledge Sequence.¹⁹ Vision's 11/15/2012 Application, pp. 5, 12-16, Appendix A-Core Knowledge Sequence. The Core Knowledge Sequence is a research-based curriculum and has been utilized in several settings with good results, *e.g.*, Icon Academy in New York and Newark Charter School in Delaware. Vision's 11/15/2012 Application, pp. 4-5, 12-14; N.T. 1/10/2013 at 19-21, 31-35. The Core Knowledge Sequence is designed to improve knowledge, language, and skills by scaffolding upon previously learned content in order to ensure that each student not only grasps the skills necessary for the subject matter, but has attained the cultural literacy that is imperative to understanding the value of the content. Vision's 11/15/2012 Application, pp. 12-16; N.T. 1/10/2013 at 20-21, 27-30.

According to the Application and testimony at the January 10, 2013 public hearing, the Core Knowledge Sequence bridges the gap between affluent and less affluent groups, reaching students of diverse backgrounds, including special education and low income students, impacting students across all subject areas by reinforcing content in one discipline from another discipline. N.T. 1/10/2013 at 20-21; 26-35; Vision's 11/15/2012 Application, pp. 12-14; Appendix A-Core Knowledge Sequence; Appendix B-Alignment of the Sequence to Pennsylvania State Standards and Common Core Standards; Vision's 2/22/2013 Supplemental Submission, pp. 1-14 (Core Knowledge Integrated Physical Education Lessons). The Core Knowledge Sequence will allow students to merge skills and content with higher-order thought and problem solving. In other words, Vision intends to use the Core Knowledge Sequence to integrate content across disciplines so that at the same time students in social studies learn about the Renaissance in

¹⁹ Interestingly, the School District's representative stated that the Core Knowledge Sequence is a reform model just like the reform model, Success For All, that the School District is using. N.T. 2/7/2013 at 23.

Europe, they study the literature of Shakespeare, listen to and appreciate music from the Renaissance, study art techniques and media used by the artists of the Renaissance, and learn about science and the contributions of scientists from the Renaissance. N.T. 1/10/2013 at 28-30; Vision's 11/15/2012 Application, pp. 13-14, 15. This method will allow a student's understanding of the interdisciplinary nature of school subjects to evolve since students do not encounter content in isolation. *Ibid.*

In addition, Vision intends to utilize Project-based Learning, another research-based approach, which will allow students to work in groups on projects that will be presented to the broader community in "Curriculum Night" events. N.T. 1/10/2013 at 24-25, 29-30; Vision's 11/15/2012 Application, pp. 6, 15-16, 23-24. Project-based Learning will be related to the Core Knowledge Sequence in that projects will be based on the content delivered in class according to the Core Knowledge Sequence. Vision's 11/15/2012 Application, pp. 6, 12-16. Project-based Learning is designed to present real world problems that capture a student's interests and provoke serious thinking as the students acquire and apply new knowledge to problem-solving contexts in groups helping them to improve not only academically but also to obtain skills such as collaboration, communication, and presentation which in turn will help them prepare for the workplace and for life. N.T. 1/10/2013 at 24-25, 29-30; Vision's 11/15/2012 Application, pp. 6, 15-16. As a culminating event for the year, Vision will hold a Curriculum Night for students, parents, and teachers, as well as the broader community, which will allow students to showcase their work on projects like plays, games, costume making, artwork, and music, all of which are related to what the students learned that year. For example, if the student is studying the Renaissance, the project will relate to the Renaissance in some way. N.T. 1/10/2013 at 28-30; Vision's 11/15/2012 Application, pp. 13-14, 15.

A review of the Application reveals that the Core Knowledge Sequence is comprehensive and that Vision's curriculum is aligned to state standards. Vision's Application contains a detailed description of its Grades K-8 social studies, science, art, music, English, math, and physical education standards, which standards comport with applicable Pennsylvania academic standards. Vision's 11/15/2012 Application, pp. 12-14, Appendix B-Alignment of the Sequence to Pennsylvania State Standards and Common Core Standards; Vision's 2/22/2013 Supplemental Submission, pp. 1-14 (Core Knowledge Integrated Physical Education Lessons).

While the Core Knowledge Sequence details the information that will be taught at each grade level, Vision intends to use McGraw-Hill and Singapore Math to provide the curriculum content in English, Language Arts, Social Studies, and Mathematics, as recommended by the Core Knowledge Foundation because of their fidelity to the Core Knowledge Sequence and their effectiveness and delivery through Direct Instruction. Vision's 11/15/2012 Application, pp. 14-16; N.T. 1/10/2013 at 21-22, 33-34. Vision's Application proposes that the teachers will teach using Direct Instruction ("DI"), which has two components: acceleration which relates to building upon the curriculum as the student progresses through future grades; and accountability which relates to teacher and student assessment through testing and other data in order to assess the performance of both. N.T. 1/10/2013 at 21-22; Vision's 11/15/2012 Application, pp. 5-6. Vision's Application contains a detailed explanation of the Direct Instruction model. Vision's 11/15/2012 Application, pp. 21-24.

Vision's Application proposes the use of a "flipped classroom" in later grades (6th-8th). The "flipped classroom" model incorporates access to instruction outside of the classroom, at home or in Vision's Extended Day Program, via web videos, computer texts, and similar programs, which allows students to develop independent learning skills and teachers to become

more engaged in addressing specific student needs during class time rather than delivering a standardized lecture. Joint Stipulation ¶ 20; N.T. 1/10/2013 at 22-24, 97-98; Vision's 11/15/2012 Application, pp. 6-7, 16. Vision has explained that the purpose of the flipped classroom model is to encourage the development of independent learning skills and allow for more student-teacher interaction during a class instead of having only a lecture. Vision's 11/15/2012 Application, pp. 6-7, 16, 24. This model frees up valuable class time for responding to student questions, pursuing active learning, and developing critical thinking skills. Vision's 11/15/2012 Application, p. 24. The Application states that Vision will provide priority to those students who do not have access to computers or technology outside the classroom. Vision's 11/15/2012 Application, pp. 6-7, 16, 24. The flipped classroom model, which will not be deployed until Vision's third year of operation, will be implemented slowly by easing students into the model gradually with either a single class or with portions of a class. Vision's 11/15/2012 Application, p. 16. The flipped classroom model is flexible and would be utilized for certain subjects but not for all subjects. N.T. 1/10/2013 at 80-82; Vision's 11/15/2012 Application, p. 24. In response to a question during the public hearing, a Vision representative stated that the flipped classroom model may or may not be used for special education students depending on their need, recognizing that while technology is often an asset to certain students with special needs, the teacher will be directed to deliver information and content to a student based on the student's IP. N.T. 1/10/2013 at 82.

Vision's Application describes an Extended Day Program in which students would have access to both computers and teachers allowing supplemental time for academic improvement as well as other activities, including extracurricular activities. Joint Stipulation ¶ 21; Vision's 11/15/2012 Application, pp. 7, 24. Vision's Application states that students who do not have

access to the Internet at home will be given priority access to computers during the school day and during the Extended Day Program. Vision's 11/15/2012 Application, pp. 24, 38.

Vision's Application contains a description of its program for English language learners (ELL). Vision's 11/15/2012 Application, pp. 16-19. Vision's Application also contains a description of how its program will meet the educational needs of students with disabilities, including the method of testing and instruction. Vision's 11/15/2012 Application, p. 19-21; *see also* N.T. 1/10/2013 at 30-31.

Vision's Application contains a description of the assessments to be used by the school to measure student proficiency and achievement, including use of the state mandated assessments and screening tools, as well as other methods. Vision's 11/15/2012 Application, pp. 33-36. Vision intends to evaluate students using standardized tests, teacher-made tests, and other informal assessments, utilizing data from all of its assessments to systematically track students' progress with regard to Vision's goals and to assess the extent to which Vision is meeting the educational needs of its students. Vision's 11/15/2012 Application, p. 33-36. These multiple types of assessments will include, *inter alia*, state mandated assessments and screening tools such as the PSSA/PASA; program embedded assessments such as quizzes, tests, student work, writing projects, observation checklists and rubrics, and curriculum my projects; other normed testing and screening such as the DIBELS (Dynamic Indicators of Basic Literacy) for grades K-3 for screening and diagnostic purposes and MAP (Measures of Academic Progress) for grades 3-8 to measure academic progress toward goals and as a tool in developing remediation or advancement. Vision's 11/15/2012 Application, pp. 33-34. Vision's Application indicates the School's commitment to comply with No Child Left Behind ("NCLB") legislation and to meet or exceed the state's mandated level of proficiency as defined by the Pennsylvania Department of

Education's (PDE) accountability system, as well as to demonstrate annual growth in academic achievement. Vision's 11/15/2012 Application, pp. 7-10.

Vision's Application contains a detailed description of the methods it will utilize for assessment and evaluation of teachers and administrators. Vision's 11/15/2012 Application, pp. 25-32. The process for evaluating teachers will be based on the use of the appropriate PDE forms regarding PDE Performance and Assessment Process. In addition, Vision will follow a professional development model that defines formative supervision as serving the purpose of enhancing the instructional skills of teachers by providing constructive feedback, acknowledging exceptional practices, and giving direction for professional development. Noncertified staff will be held to the same criteria to establish internal instructional consistency throughout the school. Vision's 11/15/2012 Application, pp. 25-32. School administrators will set annual goals for student achievement and staff development for each faculty member. The teachers will be evaluated annually on whether or not they have achieved set goals using the data collected from the following sources: formal observations, informal observations, and daily walkthroughs. Vision's 11/15/2012 Application, pp. 26-32.

Standards of evaluation for faculty members will include evaluations based on student achievement, content delivery, professionalism and content expertise, and team commitment, which standards are outlined in the Application. Vision's 11/15/2012 Application, pp. 26-32. Performance criteria include instructional planning and preparation, classroom environment instructional process, analysis of students learning, and implementation of professional goals. Vision's 11/15/2012 Application, pp. 26-32. Administrative professionals, such as the Director of Instruction, School Nurse, Special Education Coordinator, etc., will be evaluated based on the job description presented at time of employment, the academic performance of aligned areas

when applicable, and evaluations from staff members, as well as the School Leader. Vision's 11/15/2012 Application, pp. 26-32. Vision's Application contains the evaluation rubric for the School Leader which will be conducted annually by Vision's Board. Vision's 11/15/2012 Application, pp. 30-31.

Vision's Application contains a detailed description of the methods it will utilize for self-assessment and evaluation to ensure that the school is meeting its stated mission, goals, and objectives. Vision's 11/15/2012 Application, pp. 25-26, Appendix C-Building Charter School Quality Performance Management Framework. Moreover, Vision's Application and the testimony at the public hearing described various groups, including members of the Founding Coalition and the Community Advisory Committee, the NNPS, and Mr. Whisman, who have expertise in various areas and upon whom Vision has already relied and will continue to rely in the planning and accomplishing of its stated mission, goals, and objectives of providing a comprehensive learning experience to its students. Vision's 11/15/2012 Application, pp. 25-26, 48-50, Appendix C; N.T. 1/10/2013 at 7-15, 26-35, 40-51.

In light of the above evidence of record, CAB disagrees with the District Board's conclusions that Vision has failed to establish that it can provide a comprehensive learning experience for its students. The claim that the School District utilizes a better rated curriculum than what Vision proposes is insufficient to support the District Board's findings. The Application sets forth a comprehensive and detailed program of study and curriculum that demonstrates significant support and planning and is aligned to state standards. Through its utilization of the Core Knowledge Sequence, Vision offers opportunities different from the School District that are innovative in nature and which will allow it to accomplish its desired mission and goals.

The District Board's claim that Vision failed to provide for physical education is rejected as without merit. While the information was omitted from Vision's Application, Vision provided the School District with the information in a supplemental submission filed prior to the School District's vote. Vision's 2/22/2013 Supplemental Submission, pp. 1-14 (Core Knowledge Integrated Physical Education Lessons). The supplemental submission included information regarding Vision's physical education program and how it aligned with the state standards. The District Board improperly failed to consider it.

CAB also finds that Vision did provide information on how the flipped classroom would work for families who could not afford or did not have access to a computer outside of school. Vision also explained how the flipped classroom model would be utilized with special education children. Further, the District Board's conclusions that Vision's teacher evaluation system is insufficient and that the teacher trainer model has been ineffective in the School District cannot be the basis for denying Vision's Application. The Application explains in sufficient detail how Vision intends to train and evaluate its teachers, as discussed above. The Application states that teacher evaluations will include whether their students are meeting measurable academic standards which provides accountability for continued improvement in student learning.

Contrary to the District Board's findings in its Denial Letter, Vision has succeeded in demonstrating that it is capable of implementing the program it proposes in its Application. The Application describes a comprehensive educational experience that will not only provide increased learning opportunities to students but will encourage and improve learning. It follows that there is insufficient basis for the District Board's denial of the Application with regard to Vision's ability to implement its proposed program. The record in this case supports the finding

that, in terms of support and planning, Vision is capable of providing the comprehensive learning experience it proposes; and therefore, the second prong of the review test has been met.

C. Extent to Which the Application Is Complete and Conforms to Legislative Intent

The third criteria for review of a charter school application contains two parts: the extent to which the application considers the information requested in section 1719-A;²⁰ and the extent to which it conforms to the legislative intent outlined in section 1702-A. 24 P.S. § 17-1717-

²⁰ Section 1719-A of the CSL provides:

An application to establish a charter school shall include all of the following information:

- (1) The identification of the charter applicant.
- (2) The name of the proposed charter school.
- (3) The grade or age levels served by the school.
- (4) 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.
- (5) 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.
- (6) The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.
- (7) Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318.
- (8) Information on the manner in which community groups will be involved in the charter school planning process.
- (9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.
- (10) Procedures which shall be established to review complaints of parents regarding the operation of the charter school.
- (11) 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.
- (12) Information on the proposed school calendar for the charter school, including the length of the school day and the school year consistent with the provisions of section 1502.
- (13) The proposed faculty and a professional development plan for the faculty of a charter school.
- (14) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. . . .
- (15) A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.
- (16) 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.
- (17) How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school.

24 P.S. § 17-1719-A.

A(e)(2)(iii). The School Board denied Vision's Application for failing to comply with 9 of the 17 required elements of section 17-1719-A.²¹ These alleged failures will be addressed *seriatim*.

1. Curriculum and Evaluation Process

The School District contends that Vision failed to satisfy section 17-1719-A(5) for the same reasons it contends Vision failed to establish that it could provide a comprehensive learning experience for its students. District Board 3/27/2013 Denial Letter, p. 4. The District Board is in error. Section 17-1719-A(5) provides that the Application must include "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). A review of the Application reveals that it does include these elements. Vision includes in its Application a detailed statement of its mission and educational goals. Vision's 11/15/2012 Application, pp. 4-5, 7-12. Vision explains in detail the curriculum it will be offering, including the methodology by which it will be taught to the students and how it is aligned to state standards. Vision's 11/15/2012 Application, pp. 4-7, 12-41, Appendix A, Appendix B; Vision's 2/22/2013 Supplemental Submission, pp. 1-14. The Application also outlines the methods for assessing whether students are meeting those educational goals. Vision's 11/15/2012 Application, pp. 4-12, 33-36. Because the Application contains the mission and educational goals of the charter school, the curriculum to be offered, and the methods of assessing whether students are meeting educational goals, CAB rejects the School District's conclusion to the contrary, and finds that

²¹ The School Board limited its review to the portion of this factor regarding the information statutorily requested and determined that the Application failed to conform because of the absence of certain information. Therefore, there is no discussion of compliance with statutory intent under this prong. However, as discussed elsewhere, CAB finds that Vision's Application does conform to the statutory intent of the CSL. *See* Discussion, *supra*, pp. 70-73.

Vision has met this criterion. *See also* Discussion, Section B. The Capability to Provide Comprehensive Learning Experiences to Students, *supra*, pp. 41-51.

2. Information on the Manner of Involving the Community in Planning Activities

Section 17-1719-A(8) provides that the Application shall include information on the manner in which community groups will be involved in the charter school planning process. 24 P.S. § 17-1719-A(8). The School District contends that Vision failed to satisfy section 17-1719-A(8) because it failed to identify the name of any community organizations involved in the planning of the charter. District Board 3/27/2013 Denial Letter, p. 4. After reviewing the record, CAB disagrees with this conclusion.

The Application includes a list of the members of the Founding Coalition of Vision, who are also members of the immediate and surrounding communities with backgrounds in finance, marketing, education, effective and objective use of data, students with disabilities, community engagement, and facilities. They include for example several local business owners; the founder and director of Fresh Start, an afterschool program for at-risk youth in the community; a person who works with foster care placement and has worked with at-risk children and children with special needs in public schools; a university professor; and a research scientist with expertise in data evaluation. Vision's 11/15/2012 Application, pp. 36-37, 47-50, *see* Appendix G-Founding Members Resumes and References. The Application describes how the Founding Coalition came together through personal connections and commitment to education identifying a need for a school that would improve student outcomes in the School District and discusses what skills and experiences the members brought to the planning of the School describing a variety of community outreach activities, including attending community events and a public presentation

at the Darby Recreation Center promoting the fundamentals of the school on its website, which these members of the community conducted. Vision's 11/15/2012 Application, pp. 48-50.

The Founding Coalition intends to be actively involved with the community and more broadly the region in order to reach out for volunteers from local university and businesses for support in Vision's school mission and programs. Vision's 11/15/2012 Application, p. 36, 48-50. To that end, Vision created a Community Advisory Committee in order to continue to develop a relationship between the school and the surrounding community. Ten of the sixteen Community Advisory Committee Members live inside the School District. However, Vision included members from outside the school district in the Community Advisory Committee because Vision valued receiving advice from people experienced with charter schools and education in other areas so that they also can bring their knowledge and experience to Vision for the purpose of advising, assisting, and improving the educational program Vision intends to provide to its students. The Application specifically identifies several areas where the community will be involved in the school by providing input and feedback. *See generally* Vision's 11/15/2012 Application, pp. 36-37, 47-50, 155-156, Appendix M-Community Advisory Committee Members; N.T. 1/10/2013 at 77-79. CAB finds that Vision has complied with the requirement that it include information on the manner in which community groups will be involved in the charter school planning process.

3. Financial Plan

Section 17-1719-A(9) provides that the Application shall include 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).²² The School District contends that it testified at length regarding the deficiencies of the financial plan submitted with the Application. However, the School District employee who testified, Joe Otto, Chief Operations Officer for William Penn School District, specifically stated: “I am not questioning the budget. Certainly, the individual did a **nice job with the budget....**” N.T. 2/7/2013 at 34 (emphasis supplied). Mr. Otto then proceeded to raise several questions about the budget items. N.T. 2/7/2013 at 34-36. These questions form the basis of the District Board’s reasons for stating in its Denial Letter that Vision did not comply with this requirement. District Board 3/27/2013 Denial Letter, p. 4. Specifically, the District Board contends that Vision failed to satisfy section 17-1719-A(9) because it inadequately accounted for set up and construction costs for its facility, did not realistically estimate benefit expenses for employees, did not anticipate sufficient support staff, did not adequately provide for transportation costs given Vision’s proposed afterschool programming, and did not adequately anticipate the costs of books and equipment for students. District Board 3/27/2013 Denial Letter, p. 4.

However, as part of its Application, Vision included its start-up and five-year operating budgets which were prepared by Michael Whisman, CPA, founder of Charter Choices, Inc. Charter Choices, Inc. is a firm that works with over a dozen charter schools in Pennsylvania. The proposed budget includes, *inter alia*, projections for enrollment, for both regular and special education students; revenue; expenses, broken down into categories including personnel expenses (including staff salary and benefits expenses), contracted services (including professional development and food services), student activities (including after school and

²² The School District does not contend that the Application failed to present the information required for auditing. Therefore, there will be no further discussion of this issue.

extended programs), consumable supplies, books/instructional aids (including instructional software), equipment (including technology-students), and site costs (including rent and improvements). Vision's 11/15/2012 Application, pp. 56-59, Appendix I-Start Up and Five-Year Operating Budget; N.T. 1/10/2013 at 35-38. Vision's budget information includes detail of the revenue that would be generated by the school and the expenditures the school would make. *Id.* While Mr. Whisman asked for the opportunity to respond to the budget questions raised by Mr. Otto at the February 7, 2013 public hearing, Mr. Whisman was not given the opportunity to do so. N.T. 2/7/2013 at 36.²³

Vision has now identified a new location for its School at 901 Quarry Street, Darby Borough, Pennsylvania, because the location previously identified in the Application is no longer available to it. *See Discussion supra*, 4. Physical Facility, pp. 60-64. Vision has submitted a Revised Budget (hereinafter "Revised Budget") incorporating into its overall five-year budget those costs and expenditures which it has identified as associated with the new facility. *See* CAB Docket No. 2013-05, July 23, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Attachment. Vision's Revised Budget includes, *inter alia*, projections for enrollment, for both regular and special education students; revenue; expenses, broken down into categories including, personnel expenses (including staff salary and benefits expenses), contracted services (including professional development and food services), student activities (including after school and extended programs), consumable supplies, books/instructional aids (including instructional software), equipment (including technology-students), and site costs (including rent and improvements). *Ibid.* The Revised Budget lists

²³ Mr. Whisman had been given the opportunity to speak at the earlier public hearing on January 10, 2013. N.T. 1/10/2013 at 35-38, 59-62, 73-74.

revenues by source and includes state general-purpose aid and state and federal program revenues; however, the primary source of the revenue is calculated on the Estimated State Aid based on Average Daily Attendance based upon William Penn's 2013-2014 budget. *Ibid.* Vision has budgeted for a 20 to 1 student/teacher population, in year one budgeting for ten regular teachers, reading and math specialist, world languages teacher, ELL, music teacher, art teacher, technology teacher, gym teacher, guidance counselor, two special education teachers, a special education director, two teacher aides, and a Director of Instruction. *Ibid.*

Although the School District raises questions about Vision's financial plan, it has presented no concrete evidence that Vision would not have sufficient funds to be able to operate its charter school and provide a comprehensive learning experience to its students. In *Infinity Charter School*, the financial plan presented included a detailed summary of the revenue that would be generated by the school and the expenditures the school would make, along with additional budgetary information including cash flow projections and additional financial information. *Infinity Charter School*, CAB Docket No. 2002-4 at 15. CAB reviewed the above-described financial information and found that it provided a sufficient basis for concluding that the school applicant had "considered fundamental budgeting issues and sufficient funds will be available to operate the charter school." *Infinity Charter School, supra*, at 15-16.

Subsequently, on appeal, the Commonwealth Court upheld CAB's determination, pointing out that, although the local school board asserted

that the plan was inadequate because there was no money dedicated for physical education, the teacher salaries were too low, and it budgeted an inadequate amount for computers and art supplies, the ***Law does not require such specifics in the budget*** as long as the school board or upon appeal [CAB] can determine that the applicant is capable of providing a comprehensive learning experience for students.

Infinity Charter School, supra, 847 A.2d at 202 (emphasis added). The Commonwealth Court agreed that, based on the above, there was sufficient evidence for CAB to conclude that the charter school applicant's financial plan complied with the applicable provisions of the CSL. *Id.*

Although a charter school applicant is *not* required to provide extensive detail in its budget/financial information, *Infinity Charter School, supra*, 847 A.2d at 202; *see also Vida Charter School*, CAB Docket No. 2009-2 at 12 (lack of budgeting for items such as field trips, extracurricular activities, library and media services, and guidance, psychological or related services, and criticisms of amounts budgeted for health services, food and supply costs, and curriculum acquisition, are not sufficient to justify rejection of the application), Vision nonetheless did provide extensive detail in its projected budget. The fact that the District Board would budget the amounts in a different way or believes certain amounts budgeted are insufficient is not enough, given the case law above, to justify rejection of the Application.

The Charter School Law only requires limited information regarding finances, which includes: (1) the charter school's financial plan, (2) how the accounts of the charter school treasurer will be annually audited according to section 437 of the Public School Code of 1949, as amended, and (3) 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(9)&(17). If this information is provided, then the application is sufficient in this respect.

William Bradford Academy Charter School, CAB Docket No. 1999-8, at 14 n.5. Vision has provided the required information in this case.

In addition, an applicant's use of outside expertise has been approved and encouraged in prior CAB decisions. Here, Vision has utilized the services of Mr. Whisman, a CPA who has extensive experience in financial planning and budgeting for charter schools in Pennsylvania, to prepare Vision's original and Revised Budget. It is appropriate for Vision to rely on his expertise in budgeting and unreasonable for the District Board to reject his budget because they

disagree with his assumptions or judgments. *In re: Bucks County Montessori Charter School*, CAB Docket No. 1999-07 at 26-27 (School District failed to give due deference to the charter school applicant's own judgments and assumptions and the outside expertise on which it relied). Vision has provided sufficient information in its Revised Budget to meet these financial plan requirements of Section 17-1719-A(9). For that reason, CAB believes there is insufficient basis for the District Board's denial of Vision's Application because of the budget and financial information provided and disagrees with the District Board's findings in this regard.

4. Physical Facility

The requirements related to the facility which a charter school applicant proposes to utilize are found in the CSL at section 1719-A(11) and state that the applicant provide "[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).

During the Application process, Vision identified a location for the School: 404 Industrial Park Drive, Yeadon, Pennsylvania.²⁴ Joint Stipulation ¶ 22. However, the facility at 404 Industrial Park Drive was sold during the course of these proceedings and is no longer available to Vision. CAB Docket No. 2013-05, Vision's Reply Brief in Support of Its Appeal, May 9, 2014, p. 5 and Exhibit A. Upon notification that the original site in the Application was no longer available, the School District renewed its Motion to Dismiss, relying on *Souderton Area School District v. Souderton Charter School Collaborative*, 764 A.2d 688 (Pa. Cmwlth. 2000) and *Montour School District v. Propel Charter School-Montour*, 889 A.2d 682 (Pa. Cmwlth. 2006), and contending that Vision had to submit a new application to the School District so that

²⁴ The District Board found that the site was unsuitable for a variety of reasons set forth in its Denial Letter. District Board 3/27/2013 Denial Letter, pp. 3-4. Due to the unavailability of the site, those reasons are now moot and will not be discussed further.

it would have the opportunity to review it and consider whether the new facility was appropriate under the CSL. CAB Docket No. 2013-05, Respondent's Motion to Dismiss, 5/14/2014. Vision submitted a Response to the School District's Motion to Dismiss arguing that *Souderton* is inapplicable to this case and that CAB should grant Vision's Application contingent upon the new facility site, which it has already identified, being approved by the School District. CAB Docket No. 2013-05, Vision's Response to the School District's Motion to Dismiss, 5/23/2014. On June 11, 2014, counsel for Vision and the School District had a conference call with counsel for CAB during which Vision stated that it would move forward with the new site, 901 Quarry Street, Darby, PA, as its proposed location; the parties agreed to cooperate regarding the inspection of the location; and each party was directed to file with CAB a written position statement concerning the property. CAB Docket No. 2013-05, June 13, 2014 letter from Ernest N. Helling, Assistant Counsel, to counsel for the parties. The parties have done so.

In its submissions Vision has now provided a Proposal of Lease Terms for 901 Quarry Street dated March 1, 2014, outlining the terms and conditions under which Vision proposes to lease the property. CAB Docket No. 2013-05, July 7, 2014 letter to Helling from Leinhauser, Attachments. The Lease Proposal identifies the owner of the property as Quarry Equities GP, LLC, an affiliate of MinSec Properties LLC. *Ibid.* Vision has also provided a letter dated March 25, 2014 to Al Taskin, President of Vision's Founding Coalition, from Sean McDougall, Managing Member of MinSec Properties, stating that Vision is permitted/authorized to use 901 Quarry Street in its application for a school charter and that he has in his possession a Letter of Intent from Vision and he is amiable to work out a deal with the terms proposed. *Ibid.* The Lease Proposal includes a picture of the property and states that it has 80,000 square feet of rentable space, with 20,000 square feet of rentable space on the first floor. *Ibid.* Additionally,

the Lease Proposal sets out the base rent proposed for the first three years, provides for renewal options, and describes other terms and conditions of the proposed agreement. *Ibid.* The Lease Proposal states that the landlord will install a commercial kitchen, and offers Vision the opportunity to purchase meals for its students from the kitchen operator. *Ibid.* The Lease Proposal also includes the relevant zoning information. *Ibid.* Thus, Vision has supplied a description and address of the facility and the ownership thereof and any lease arrangements. Accordingly, Vision has met the requirements of section 17-1719-A(11) of the CSL, 24 P.S. § 17-1719-A(11), pertaining to the facility.

Vision recognizes that it must comply with all requirements under the law to ensure that the space will be appropriate for the education of students and asserts through its counsel that it has obtained a commitment from the landlord to make certain and necessary modifications to the facility, some of which commitments are outlined in the Lease Proposal. CAB Docket No. 2013-05, July 23, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision; July 7, 2014 letter to Ernest N. Helling, Assistant Counsel, from Brian H. Leinhauser, Esquire, counsel for Vision, Lease Proposal, p.2 ¶ Commencement, p. 3 ¶ Café, p. 4 Security, HVAC, Compliance with Laws.

The School District has filed a supplemental submission in response. CAB Docket No. 2013-05, July 14, 2014 letter to Ernest N. Helling, Assistant Counsel, from David F. Conn, Esquire, counsel for School District.²⁵ The School District finds the new site unsuitable for a

²⁵ The School District has renewed its Motion to Dismiss and asked CAB to grant it arguing that under *Souderton*, the designation of a new facility by Vision requires a new charter school application to be filed with the School District. CAB Docket No. 2013-05, July 14, 2014 letter to Ernest N. Helling, Assistant Counsel, from David F. Conn, Esquire, counsel for the School District, p. 1, n. 1. The School District is in error. *Souderton* and *Montour* do not require the granting of a Motion to Dismiss and the submission of a new Application in this case as suggested by the School District. In *Souderton*, CAB had ordered the school district to sign the charter of an application with an identified site in a Strip Mall only if the site was still available. In its opinion, CAB questioned whether that site

(Footnote continued on next page.)

variety of reasons, including the absence of an actual lease agreement/commitment, the lack of an outdoor play area for the students, that the proposed 20,000 square feet is too small for Vision's proposed student population, that the cost of refitting the space is too expensive, and that the site is too industrial and inhospitable to be suitable as a site for the charter school.²⁶ *Ibid.* In support of its position, the School District submitted what it claims to be current pictures of the site and an Affidavit from a former tenant at 901 Quarry Street who is actually a School District employee and who outlines a list of extensive repairs and work that the School District contends would need to be completed before the School District believes the building could be utilized as a school. *Ibid.*, Affidavit of Dana Pinckney, pictures of site.

However, the CSL does not require that a charter applicant actually secure the proposed property or provide the School District with a lease or sales agreement or a site development plan in order to comply with the provisions of the law. *In re: Baden Academy Charter School v. Ambridge Area School District*, CAB Docket No. 2011-03 at 8 (holding a charter may not be

was still available since two years had passed and directed the applicant to notify it and the School District if the applicant would need a different location. Commonwealth Court found that if it were no longer available, then the charter could not be signed and the applicant would have to file a new application. *Souderton Area School District v. Souderton Charter School Collaborative*, 764 A.2d 688 (Pa. Cmwlth. 2000). This of course was because the review process had been completed and CAB had issued its opinion. *Souderton* stands for the proposition that "the proposed facility must be presented for the District or CAB to approve prior to the school opening, and before the application is granted." See *Montour School District v. Propel Charter School-Montour*, 889 A.2d 682, 690 (Pa. Cmwlth. 2006). Unlike in *Souderton*, in this case CAB had not issued an opinion or even had argument at the time Vision learned that it had lost the facility identified in its Application. Rather, this case is more akin to the facts in *Montour*, where prior to oral argument before CAB, the applicant learned that it had lost the facility identified in its Application. Commonwealth Court ruled that CAB should have heard the evidence which the applicant wanted to present about the new site given CAB's *de novo* review. *Id.* at 690. *Montour* stands for the proposition that CAB must hear the evidence of whether a new location is suitable under the CSL when the facility site is lost during a pending appeal before CAB. *Ibid.* There is no requirement that Vision must submit a new Application in this case. The School District's Motion to Dismiss is DENIED. As discussed herein, the School District was able to address the suitability of the new site and CAB reviewed the site's suitability pursuant to its *de novo* review. See Discussion, pp. 60-64.

²⁶ The School District also objects to the 901 Quarry Street site because Vision had not included any estimate of initial costs or a Revised Budget related to the site with its first submission. However, on July 23, 2014 Vision submitted a Revised Budget which included costs and expenditures related to the new facility. CAB finds Vision's Revised Budget compliant with the requirements of the CSL. 24 P.S. § 17-1719-A(9). See *supra*, Discussion, 3. Financial Plan, pp. 55-60.

denied for failure of the applicant to have all necessary plans and/or approvals for the facility included in the application). *See also In re: Infinity Charter School*, CAB Docket No. 2002-04 at 14; and *In Re: Environmental Charter School*, CAB Docket No.1999-14. CAB has previously determined that a letter of intent to lease a proposed charter school facility is sufficient evidence of a location for the charter school to comply with the CSL. *William Bradford Academy Charter School*, CAB Docket No. 1999-8 at 13. As already stated above, Vision identified the facility and described the facility, the ownership, and lease arrangements “in at least a general way,” and the School’s evidence included a proposal to lease the facility. Accordingly, the *William Bradford Academy Charter School* case is apropos.

Finally, when it comes to the facility requirements of the CSL, CAB has previously concluded that, “for approval of a Charter School, the legislature intended this law to be liberally interpreted to encourage the development and growth of such schools.” *In re: Legacy Charter School*, CAB Docket No. 2000-14 at 8; *see also In re: Leadership Learning Partners Charter School*, CAB Docket No. 2000-8 at 13. Furthermore, in the *Leadership Learning Partners* case, as is the case here, the applicant acknowledged that work would be required to prepare the building for use as a school, just as Vision has done here through its counsel’s representations. As was the case in *Leadership Learning Partners*, in this case, “[n]othing on the record indicates that the proposed facility is not amenable to such efforts.” *Leadership Learning Partners* at 13. Accordingly, Vision has met its burden as to its proposed facility, and consequently, its proposed facility cannot serve as a basis for the District Board’s denial of the School’s application.

5. The Proposed School Calendar

Section 17-1719-A(12) provides that the Application shall include 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 1502.²⁷ 24 P.S. § 17-1719-A(12). The School District contends that Vision failed to satisfy section 17-1719-A(12) because it failed to provide a breakdown of the instructional day. District Board 3/27/2013 Denial Letter, p. 4. However, this section does not require a breakdown of the instructional day. Rather, it requires only an explanation of the length of the school day and school year. In its Application Vision stated that its school year/calendar would coincide with that of the School District, its daily hours of operation for students would be approximately 8:30 a.m. to 3:15 p.m., while the faculty and administration hours would be somewhat longer, and the Extended Day Program would consist of two sessions-one starting at 3:30 p.m. and the other at 4:30 p.m., with pickup for students at 5:15 p.m. Vision's 11/15/2012 Application, pp. 25, 38. The CSL does not require a breakdown of the instructional day. Vision has provided the information required by this provision in its Application. This does not provide grounds for denial of Vision's Application.

6. Professional Development Plan for the Faculty

Section 17-1719-A(13) provides that the Application shall include the proposed faculty and a professional development plan for the faculty of a charter school. 24 P.S. § 17-1719-A(13). The School District contends that Vision failed to satisfy section 17-1719-A(13) because the School District administrators had concerns over the professional development plan, particularly the evaluation process. District Board 3/27/2013 Denial Letter, p. 4. In particular, the School District stated that "the Application proposes to evaluate "School Leaders" (the Application does not actually identify a principal position) in terms of internal, charter goals, and not with any reference to external standards of academic progress. *Ibid.* CAB disagrees with the findings of the School District.

²⁷ Section 1502 governs the setting of open days and holidays for the school year. *See* 24 P.S. § 15-1502.

Vision's Application contains a proposed governance structure which creates the position of a "School Leader" who would serve under the supervision of the Board of Directors and direct the functioning of the school, including the supervision of administrative, educational, business, and guidance staff members. Joint Stipulation ¶ 28; *see also* Vision's 11/15/2012 Application, pp. 50-51, 70-74.²⁸ The Application sets forth a professional development plan which includes teachers forming Professional Learning Communities where they will review principles and strategies of effective classroom management and employee assessment tools. Vision intends to contract with experts in certain fields to train staff in specific educational areas as necessary. Vision is committed to personalized professional growth for every staff member and includes requirements in the responsibilities of the School Leader and Director of Instruction that requires him/her to focus on developing professional growth plans for the staff. In addition, each staff member will be required to develop professional growth goals and will be assessed by the Director of Instruction and the School Leader. Faculty will be encouraged to attend seminars and conferences. Vision recognizes that there is a strong relationship between teacher performance and quality of education, and therefore, makes professional development an important goal. Vision's 11/15/2012 Application, pp. 68-74. CAB disagrees that this is insufficient.

Further, Vision's Application contains a detailed description of the methods it will utilize for assessment and evaluation of teachers and administrators. Vision's 11/15/2012 Application, pp. 25-32. The process for evaluating teachers will be based on the use of the appropriate PDE

²⁸ The CSL does not require that a charter school applicant utilize a particular name for the faculty or administrator in charge of overseeing the school such as "principal" as opposed to "School Leader." The job description, which is included in the Application, establishes the School Leader's duties and responsibilities. Vision's 11/15/2012 Application, pp. 70-71.

forms regarding PDE Performance and Assessment Process. Vision's 11/15/2012 Application, p. 26. This is a reference to an external standard of academic progress. In addition, Vision will follow a model that defines formative supervision as enhancing instructional skills of teachers by providing constructive feedback, acknowledging exceptional practices, and giving direction for professional development. Noncertified staff will be held to the same criteria to establish internal instructional consistency throughout the organization. *Ibid.* School administrators will set annual goals for each faculty member which will also be related to student achievement goals. Vision's 11/15/2012 Application, p. 26. The teachers will be evaluated annually on whether or not they have achieved set goals using the data collection from various sources, including formal observations, informal observations, daily walkthroughs, and student achievement which includes PSSA scores. Vision's 11/15/2012 Application, pp. 26-32. Moreover, in explaining the evaluation rubric for assessing the School Leader's performance, the Application specifically references external standards of academic progress set by PDE, such as "proficiency (AYP),²⁹ decreasing in lowest performance band, increasing in highest performance band, graduation rate, attendance, teacher retention, grade promotion." Vision's 11/15/2012 Application, pp. 30-31. The record establishes that Vision has presented sufficient information under the CSL to comply the provisions required by section 17-1719-A(13). 24 P.S. § 17-1719-A(14). The School District's findings to the contrary are rejected.

²⁹ In its brief in support of its appeal, Vision states that PDE has obtained a release from the obligations of the No Child Left Behind law regarding AYP and has implemented the SPP program for school performance measures, which method of evaluation Vision intends to incorporate into the rubric of evaluating its School Leader's performance. Vision's Brief in Support of Its Appeal, p. 20, fn. 6.

7. Agreements or Plans with School District Regarding Extracurricular Activities

Section 17-1719-A(14) provides that the Application shall include “[w]hether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district....” 24 P.S. § 17-1719-A(14). The School District contends that Vision failed to satisfy section 17-1719-A(14) because Vision acknowledged that it had no agreements or plans with the School District regarding extracurricular activities “although Vision Academy indicated its willingness to do so.” District Board 3/27/2013 Denial Letter, p. 4. The School District misreads the requirements of this provision. This provision of the CSL does not *require* that the applicant enter into agreements or plans with the local school district regarding extracurricular activities; rather, it requires only that the applicant include information on *whether* any such agreements have been entered into or plans have been developed. Vision has done this.

Vision’s Application contains a description of the extracurricular activities planned for the charter school. Vision’s 11/15/2012 Application, pp. 38-41. The Application also contains a statement that no extracurricular activities have been jointly planned with the School District yet. Vision’s 11/15/2012 Application, p. 41. This statement complies with the requirements of the CSL. The application also contains a statement that Vision seeks the opportunity to cooperate with the School District regarding participation of Vision’s students in School District extracurricular activities. Vision’s 11/15/2012 Application, p. 41. Therefore, CAB disagrees with the School District’s finding that the Application failed to contain the information required by this section.

8. Criminal History Records and Child Abuse Clearances

Section 17-1719-A(15) provides that the Application shall include a report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students. 24 P.S. § 17-1719-A(15). Section 17-1719-A(16) provides that the Application shall include 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). The School District contends that Vision failed to satisfy the requirements of these two sections because Vision failed to include any of these reports or statements in its Application. District Board 3/27/2013 Denial Letter, p. 4.

Previously, CAB has recognized that it is often unlikely that charter applicants will have any potential or actual employees identified before the School District's decision on the application; that the CSL does not require that all potential employees be identified at the time of the application; and that, in such circumstances, the application will be deemed acceptable if it specifies that the required clearances and background checks will be secured and provided prior to employing individuals who will have contact with children. *See William Bradford Academy Charter School, supra*, at 7 n.1, 15 n.6.

In this case, Vision has not yet hired any employees and no Founding Coalition members will be hired for those positions. N.T. 1/10/2013 at 87-88. Therefore, it was not possible for Vision to provide reports of criminal history records and official clearance statements regarding child injury or abuse for persons not yet hired. However, Vision's Application includes Vision's Personnel Policy Manual which mandates that prior to any employment all employees must comply with state requirements including, but not limited to, providing Child Abuse Index

reports and Criminal Record Statements. Vision's 11/15/2012 Application, Appendix J- Personnel Policy Manual, p. 108. For these reasons, CAB disagrees with the findings of the School Board that failure to include this information in the Application requires a denial of the Application, when no staff has been hired and its Personnel Policy Manual requires the clearances and background checks to be provided prior to the commencement of employment.

Because Vision's Application substantially complies with all the information requested by section 17-1719-A of the CSL, CAB rejects the District Board's findings to the contrary. Vision has satisfied the third criteria. Its application should not have been denied for failure to provide the information requested by section 17-1719-A. 24 P.S. § 17-1719-A.

D. Serve as a Model for Other Public Schools

The final criterion for consideration by which a local board of school directors shall evaluate a charter school application is "[t]he extent to which the charter school may serve as a model for other public schools." 24 P.S. § 17-1717-A(e)(2)(iv). In this case, the District Board determined that Vision would not serve as a model for other public schools because: (1) the Application did not identify any difference in curriculum style or type from that which the School District already offered, other than the flipped classroom; (2) Vision acknowledged that it would not attempt to provide special education services in any way different from those offered by the School District; (3) the School District "harbor[ed] grave concerns" about the idea of a flipped classroom; and (4) Vision is required to maintain only 75% of its teaching staff as highly qualified, fully certified Pennsylvania teachers, as opposed to the 100% required to be maintained by the School District. District Board 3/27/2013 Denial Letter, pp. 4-5.

In relation to this fourth criterion, the CSL does not provide any specific manner or degree to which a charter school must differ from the local school district. In fact, CAB has held

that similarities alone are insufficient to support a finding of noncompliance with the CSL. *In re: Infinity Charter School*, CAB Docket No. 2002-04 at 17; *see also Montour School District v. Propel Charter School-Montour*, 889 A.2d 682, 685 (Pa. Cmwlth. 2006). Rather,

[t]he legislative intent behind the CSL is “to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish . . . [and e]ncourage the use of different and innovative teaching methods.” 24 P.S. § 17-1702-A(2). In order to achieve this goal, the CSL requires an applicant to provide information regarding 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).

Montour School District v. Propel Charter School-Montour, 889 A.2d at 687-688 (citations omitted).

After reviewing the record, CAB finds that the educational program proposed by Vision is innovative and distinctive from the School District. Vision proposes a Kindergarten through Eighth Grade configuration that is unique to the School District in order to help students move from elementary to middle school without suffering the sharp drop in achievement that usually occurs in a transition year. The School District does not have a K through Eighth grade school. Vision will provide a research-based curriculum, Core Knowledge Sequence, supported by data-driven instruction with positive behavior support systems, including civic responsibility to school and community, to accelerate learning for students. The School District does not utilize the Core Knowledge Sequence. The Core Knowledge Sequence bridges the gap between affluent and less affluent groups, reaching students of diverse backgrounds, including special education and low income students, impacting students across all subject areas by reinforcing content from one discipline in another discipline, which allows a student’s understanding of the interdisciplinary nature of school subjects to grow. Vision believes that its model will prove particularly effective for special education and disadvantaged students.

Vision intends to use the Core Knowledge Sequence to merge skills and content with higher-order thought and problem solving and to integrate content across domains so that at the same time that students learn about the Renaissance in social studies, they study the literature of Shakespeare and other Renaissance writers, listen to and appreciate music from the Renaissance, study art techniques and media used by the artists of the Renaissance, and learn about the contributions of scientists from that time period. The School District did not describe any program similar to that of Vision and admitted that the Core Knowledge Sequence was well rated, even if not as high as the School District's own program.

Vision also intends to utilize another research-based approach, Project-based Learning, which will allow students to work in groups on projects that will be presented to the broader community in "Curriculum Night" events, and which projects will be integrated into the Core Knowledge Sequence program. Vision proposes to use technology to drive learning, through the use of the flipped classroom in later grades, in order to help the students become autonomous learners with the capacity to advocate for their own education as they move through the transition to high school in the School District. While the School District admits that the flipped classroom model is innovative and different from anything it has, it questions its effectiveness. Questioning whether or not a program may be effective does not support a claim that the school will not be a model for others. It is not a sufficient ground for denying a charter. In making this argument, it is clear that the District Board gave little weight to both the evidence related to the nature of the Core Knowledge Sequence program and other aspects of Vision's proposed program as outlined in the Application and presented at the public hearing. Rather, the School District is resisting the CSL's legislative intent by discouraging the use of different and innovative teaching methods.

Vision intends to evaluate students using standardized tests, teacher-made tests, and other informal assessments, utilizing data from all of its assessments to systematically track students' progress with regard to the School's goals and to assess the extent to which Vision is meeting the educational needs of its students. Vision intends to engage parents as active partners in education through research-based action teams and multiple opportunities for interaction with their children's teachers and their children in the education setting. With regard to the community service component, Vision intends to seek input from community organizations as to how the School and those organizations can work together to create new community service opportunities. All of these proposals distinguish Vision from traditional schools.

Also, in order to foster the overall philosophy of the School, Vision intends to have fewer students than traditional schools; maintain an in-class student/teacher ratio of no more than 20:1, and enroll no more than 20 students per class. Vision cites the small class size and groupings as an important aspect of its educational program because small classes will allow teachers to interact in more one-on-one situations with students throughout the school day, thus allowing teachers to gain a better understanding of their students and their needs, thereby allowing them to better meet the individual student's needs.

Many of these aspects of Vision's program make it unique and a model for other schools. This evidence more than adequately describes 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," as the CSL requires. 24 P.S. § 17-1717-A(e)(2)(iv). Therefore, CAB finds that Vision can serve as a model for other public schools. CAB finds that Vision satisfies the fourth CSL criterion, and the District Board's conclusion to the contrary is rejected.

CONCLUSION

Based upon the foregoing analysis, the record does not support the District Board's denial of Vision's Application. Accordingly, the following Order will issue:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD

Vision Academy Charter School,
Petitioner

v.

William Penn School District,
Respondent

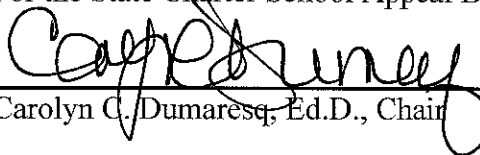
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Docket No. 2013-05

ORDER

AND NOW, this 13th day of November, 2014, based upon the foregoing and the vote of this Board,³⁰ the appeal of the Vision Academy Charter School is **AFFIRMED**; and the William Penn School District Board is directed to grant the Application and sign Vision Academy Charter School's charter pursuant to the CSL at section 1720-A of the Charter School Law, on the condition that the facility at 901 Quarry Street, Darby, Pennsylvania, be brought into compliance with all applicable laws before the 2015-2016 school year commences. 24 P.S. § 17-1720-A. 24 P.S. § 17-1720-A.

For the State Charter School Appeal Board


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Date of mailing: 11/14/14

³⁰ At the Board's meeting on October 28, 2014, the appeal was granted by a vote of 4 to 3, with Members Bracey, Miller, Munger, and Henry voting to grant.