

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

<b>TRUEBRIGHT SCIENCE ACADEMY</b>	:	
<b>CHARTER SCHOOL</b>	:	
	:	
<b>v.</b>	:	<b>CAB No. 2013-11</b>
	:	
<b>THE SCHOOL DISTRICT OF</b>	:	
<b>PHILADELPHIA AND SCHOOL REFORM</b>	:	
<b>COMMISSION</b>	:	

**OPINION**

In accordance with the Charter School Law (CSL), this matter comes before the Pennsylvania State Charter School Appeal Board (CAB) on appeal by the Truebright Science Academy Charter School (Truebright) from the order by the School District of Philadelphia and School Reform Commission non-renewing Truebright’s charter.

Truebright was granted a charter from the School District of Philadelphia on January 18, 2006, pursuant to 24 P.S. § 17-1720-A. The Charter was set to expire on June 30, 2012. Truebright submitted a renewal application to the District in September 2011. On or about April 19, 2012, the SRC identified eighteen grounds for non-renewal of the charter and initiated hearings on the matter. Between April 2012 and May 2013, the hearing officer held ten days of hearings. On August 26, 2013, the hearing officer issued Proposed Findings of Fact and Conclusions of Law. On October 17, 2013, the SRC took up the matter at a public hearing. During the October 17, 2013 hearing, the SRC voted to adopt the findings of the Hearing Officer and deny the charter renewal request. This appeal followed.

## FINDINGS OF FACT

1. Truebright is a Pennsylvania nonprofit corporation with a place of business at 926 W. Sedgely Avenue, Philadelphia, Pennsylvania 19144. SD Ex. 5, SD Ex. 9.
2. In October 2005, Truebright applied for a charter to operate a charter school. N.T. 16-17, SD Ex. 3.
3. On January 18, 2006, the SRC approved the charter school by Resolution No. SRC-12. N.T. 17, SD Ex.4.
4. The District and Truebright executed a written Charter Agreement, dated as of July 1, 2007. SD Ex. 5.
5. The Application was incorporated into the Charter Agreement. SD Ex. 5, Article I, paragraph B, 12, p. 3.
6. The charter school opened in September 2007. The term of the charter was for five years commencing July 1, 2007 through June 30, 2012. SD Ex. 5, p. 6.
7. Truebright serves students in 7<sup>th</sup> through 12<sup>th</sup> grades at its school. N.T. 209, SD Ex. 3 pp. 1-2.
8. Truebright is authorized to enroll up to 350 students. SD Ex. 3, p. 1.
9. The enrollment of Truebright for 2011-2012 school year was approximately 321 students. N.T. 684.
10. As part of the renewal process, SchoolWorks was engaged by the School District to participate in the charter renewal process. N.T. 466, 468.
11. SchoolWorks provided the protocol for the site visit to the charter school in advance of the visit. SchoolWorks requested that the charter school provide documents at the time of the site visit. The protocol, which was developed by SchoolWorks in collaboration with

the Charter School Office of the District, contained domains of the protocol defined by a set of research-based criteria and indicators grounded in best educational practices. SD Ex. 19, p. 1; SD Ex. 49, Renewal Site Visit Protocol, p. 2.

12. To assess whether the charter school is meeting the goals of the charter school, as outlined in its charter, and whether the charter school is complying with all federal and state laws, the Charter School Office conducted a review and analysis of the following four areas – academic performance, financial health, governance and compliance, and customer satisfaction:

- a. the domain of academic performance includes an analysis of PSSA results, AYP status, proficiency levels and student cohort growth rates
- b. the domain of financial health assesses the charter school's fiscal stability and ongoing financial viability
- c. the governance and compliance domain focuses on fidelity to the charter mission and adherence to requirements including board management, certifications, licenses and insurance
- d. the customer satisfaction domain gauges how well the school serves its students, families and staff, including consideration of student retention rates

N.T. 25-27; SD Ex. 47.

13. On September 1, 2011, SchoolWorks scheduled a site visit of Truebright during the week of October 17, 2011. SD Ex. 50.

14. During the site visit, Truebright's documents were reviewed, classrooms were visited and interviews were conducted with Truebright Board members, the leadership of the school, teachers and students. N.T. 35; N.T. 472-473; N.T. 767-768; N.T. 1176.

15. During the site visit, the District team found that: professional development and planning opportunities were not currently available to support effective special education program implementation; leadership did not provide adequate oversight of the school and did not establish clear goals and procedures that uniformly guide school practices; there was no evidence

of rigorous professional development or a system for evaluating teacher and leadership effectiveness; stakeholders did not share a clear and consistent understanding of the school's stated mission, vision and core values; teachers were not given opportunities to help drive decisions to enhance student performance. N.T. 504; SD Ex. 19, pp. 2, 3, 7, 10.

16. The Charter School Renewal Site Visit report for Truebright dated October 17, 2011 was shared with Truebright on Nov. 9, 2011. N.T. 486; SD Ex. 19.

17. On November 15, 2011, Truebright submitted its application for renewal with appendices and attachments. N.T. 22-23; SD Ex. 30.

18. The Charter School Office reviewed the renewal application. After review and analysis of the application and review of Truebright's rebuttal, the Charter School Office recommended to the SRC that Truebright's charter not be renewed. N.T. 27-28, 40-41, 45, *et al.*

19. By email message dated March 2, 2012, the District notified Truebright of its recommendation and report that the SRC not renew the Charter. N.T. 41, 45-46; SD Ex. 36.

20. The Charter School prepared a Rebuttal report. N.T. 46-47.

21. The Charter School Office reviewed the rebuttal report and continued to recommend to the SRC that the Charter not be renewed. N.T. 47; SD Ex. 35.

22. On April 19, 2012, at a regularly-scheduled public meeting, the SRC initiated non-renewal proceeding against Truebright by approving Resolution No. SRC-13, not to renew Truebright's Charter and providing specific grounds on which this decision was based. The Resolution also scheduled a public hearing to hear evidence and testimony on the nonrenewal decision for June 8, 2012. N.T. 47-48; SD Ex. 39.

23. In Resolution SRC-13, the SRC provided the following eighteen grounds for non-renewal of the Charter School's charter:

- a. The Charter School failed to make adequate yearly progress (“AYP”) in every year during the Charter School’s current charter term, as required by the Charter School’s charter agreement, and the Charter School currently is in Warning status
- b. The Charter School’s PSSA proficiency scores have been consistently lower than the State targets, the School District average, and the Charter School average in both math and reading during the term of the Charter.
- c. Based on the Pennsylvania Value-Added Assessment System (“PVAAS”), which measures academic growth, the Charter School consistently lags behind the State’s normal growth standard, as well as the School District and the Charter School growth averages, in both math and reading.
- d. The Charter School failed to provide adequate academic supports and program implementation for English Language Learners and for students with special needs during the term of the Charter.
- e. The Charter School failed to provide professional development and planning opportunities to support an effective special education program during the term of the Charter.
- f. During the term of the Charter, the Charter School did not have special education teachers participate in the Truebright Student Assistance Process.
- g. The Charter School has failed to meet the 75% certified professional staff requirement, as required by the Charter School Law, during the term of the Charter.
- h. The Charter School has failed to meet the 100% highly qualified teacher requirement, as required by the No Child Left Behind Act, during the term of the Charter.
- i. During the term of the Charter, the Charter School failed to provide adequate professional development to ensure that all school staff understood service delivery or the Charter School’s program model.
- j. During the term of the Charter, the school leadership failed to serve as an instructional resource to school faculty and staff.
- k. The Charter School has failed during the term of the Charter to achieve its mission and its goals as set forth in its charter application.
- l. The Board of Trustees of the Charter School has not been engaged in the Charter School’s educational program and operations.

m. The Charter School and the Board of Trustees of the Charter School have failed to address concerns of Charter School staff and parents about provisions in teacher contracts, inefficient and outdated technology, employee salaries and terms of employment, discriminatory employment practices, and payroll tax withholding issues during the term of the Charter.

n. During the term of the Charter, the Charter School has failed to implement structures to enforce and monitor the use of instructional practices to support student learning.

o. The Board of Trustees of the Charter School has failed to establish criteria for assessing the school's academic program during the term of the Charter.

p. The Charter School has had a high turnover in school leadership during the term of the Charter.

q. During the term of the Charter, the Charter School has failed to enroll a large number of students from the Charter School's catchment area; 16% of the Charter School's enrolled students live within the catchment area and only 0.5% of the eligible students in the catchment area are attending the Charter School.

r. The Charter School has a 37% four-year retention rate for 9th grade students who enrolled in 2007.

SD Ex. 39.

24. Pursuant to Resolution SRC-13, a hearing officer was appointed by the Chairman of the SRC. HO Ex. 1.

25. The hearing officer presided over ten days of hearings between July 10, 2012 and May 2, 2013. Both the District and Truebright appeared at all the sessions of the hearing and were represented by counsel. HO Ex. 1.

26. The District permitted a 30-day period for public comment regarding the proposed nonrenewal of Truebright's charter. HO Ex. 1.

27. In August 2013, the hearing officer submitted her recommendation to the SRC, with a proposed adjudication that Truebright's charter not be renewed.

28. The hearing officer found that the District did not submit any proposed findings regarding grounds 6 and 16 and did not prove grounds 5, 9, 10, 12 and 14. Of the remaining eight grounds, the hearing officer found that the District proved grounds 3 and 15, but that they were not a basis for nonrenewal under the Charter School Law. The hearing officer found that the District proved grounds 1, 2, 4 (for two years), 8, 11, 13 (as to failure to provide laptop computers), 17 and 18 and that these grounds were material violations of the charter and/or law. HO Adjudication.

29. At a regularly-scheduled public meeting on October 17, 2013, after reviewing the hearing officer's proposed adjudication and any written public comments that were provided, and after hearing oral comments at the meeting, the SRC voted unanimously to accept the hearing officer's recommendation not to renew Truebright's charter, effective immediately, and issued its Adjudication in the form of Resolution SRC-6.

#### **Truebright's Failure to Make AYP - SRC Ground for Nonrenewal #1**

30. In its written charter, Truebright "agrees to make AYP consistent with the Pennsylvania Department of Education's Accountability System pursuant to the No Child Left Behind Act for each year during the five-year Term of this Charter." SD Ex. 5, Article X, Section D, subsection 3a, "Program", p. 17.

31. In the Charter, Truebright acknowledged and agreed that its "failure to meet the accountability criteria specified below, in whole or in part, constitutes grounds for revocation of . . . [its Charter]." SD Ex. 5, Article X, Section D, p. 16.

32. Truebright only made AYP in three years of the five-year term of its charter:  
In 2007-2008, Truebright did not make AYP - Warning  
In 2008-2009, Truebright made AYP

In 2009-2010, Truebright made AYP

In 2010-2011, Truebright did not make AYP - Warning

In 2011-2012, Truebright made AYP by Safe Harbor

N.T. 1687-1688; SD Ex. 30, p. 6; TB Ex. 59.

**Truebright's Consistently Lower PSSA Proficiency Scores – SRC Ground for Nonrenewal #2**

33. In Goal One of the Application, Truebright states that its "[s]tudents will realize high academic achievement and rank on national standardized tests and will meet or exceed the state's mandated level of proficiency as defined by the Pennsylvania System of School Assessment (PSSA)." SD Ex. 3, p. 2.

34. The following table shows the percentage of all students in Truebright's student population who scored Advanced or Proficient on the PSSA in reading and math, the state targets in each year and Truebright's AYP status for each year of the five-year term of the charter:

<b>Year</b>	<b>Reading Adv/Prof %</b>	<b>State Goal</b>	<b>Math Adv/Prof %</b>	<b>State Goal</b>	<b>AYP Status</b>
<b>2007-2008</b>	34	63	20	56	Warning
<b>2008-2009</b>	36	63	34	56	Made AYP
<b>2009-2010</b>	48	63	44	56	Made AYP
<b>2010-2011</b>	29	72	41	67	Warning
<b>2011-2012</b>	40	81	47	78	Made AYP

N.T. 409; SD Ex. 6, 30, 78.



35. The following table shows the percentage of all students in Truebright’s student population who scored Advanced or Proficient, Basic and Below Basic on the PSSA in Reading and Mathematics, for each year of the five-year term of the charter:

<b>Subject</b>	<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010</b>	<b>2010-2011</b>	<b>2011-2012</b>
<b>Reading Adv/Prof</b>	34	36	48	29	40
<b>Reading Basic</b>	30	30	22	26	23
<b>Reading Below Basic</b>	36	34	29	45	37
<b>Math Adv/Prof</b>	20	34	44	41	47
<b>Math Basic</b>	25	27	16	14	13
<b>Math Below Basic</b>	55	39	39	45	40

SD Ex. 6, 78.

36. The following table shows the percentage of School District of Philadelphia students who scored Advanced or Proficient on the PSSA Reading and Mathematics during the same time period<sup>1</sup>:

<b>Subject</b>	<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010</b>	<b>2010-2011</b>	<b>2011-2012</b>
<b>Reading Adv/Prof</b>	44.9	54	50	52	45
<b>Math Adv/Prof</b>	49	55.5	56.3	50.6	50

<sup>1</sup> The record does not contain the PSSA scores for the School District of Philadelphia. However, the law allows CAB to take notice of such records. See 1 Pa. Code § 35.173; *Department of State v. Stetcher*, 484 A.2d 755, 757 (Pa. 1984); *Taylor v. Pa. Board of Probation and Parole*, 569 A.2d 368, 371 (Pa. Cmwlth. 1989). As such records are maintained by the Pennsylvania Department of Education and are available on the Department’s website.

37. Pennsylvania Value Added Assessment System (PVAAS) is a statistical analysis used to measure a school's impact on the academic progress rates of groups of students from year-to-year. SD Ex. 45.

38. Truebright's PVAAS data shows that there is significant evidence that the school did not meet the standard for academic growth in either math or reading for 2011. SD Ex. 45.

39. Truebright's PSSA proficiency scores have been consistently lower than the state goals or targets, the School District average and the charter school average in both math and reading during the term of the charter. N.T. 394-410.

### **Truebright's Academic Goals**

40. There were eight academic goals in the charter school application. SD Ex. 5, pp. 2-8.

41. In Academic Goal One of the charter application, Truebright stated that: "Students will realize high academic achievement and rank on national standardized tests and will meet or exceed the state's mandated level of proficiency as defined by the Pennsylvania System of School Assessment (PSSA)." SD Ex. 3, p.2.

42. Truebright promised "to raise the proficiency level by at least 20 percentage points in reading and mathematics over the life of the charter as measured by the PSSA Reading and Mathematics at Grade 8." SD Ex. 3, p.2.

43. The baseline for Grade 8 Reading was 49%, with a goal of 69% after five years. The baseline for Grade 8 Math was 37%, with a goal of 57% after five years. SD Ex. 3, p. 2.

44. Truebright failed to meet the goal of raising proficiency by the stated percentage. N.T. 535-537; SD Ex. 3, p. 2; 30, pp. 6-9.

45. In Academic Goal Four, Truebright states that "[a]ll students will effectively use the formal conventions of Standard English in speech and in writing." SD Ex. 30, p. 7.

46. In the 2011 Renewal Application, Truebright concedes that it did not fully meet this goal. SD Ex. 30, p. 7.

47. As of the time of the renewal application, Truebright's Chief Executive Officer admitted that some of the eight academic goals contained in the original charter application were not fully met at the time of the renewal application. N.T. 535-537; SD Ex. 30, pp. 6-7.

48. At the hearing, the charter school did not discuss or set forth what specific steps are in place or will be put in place to ensure that these goals are achieved. FF 181.

#### **AYP Goal**

49. In the 2011 Renewal Application, Truebright admits that it did not meet this Goal. N.T. 535-537; SD Ex. 30, pp. 6-9.

50. Truebright has not met the student academic performance standards and goals during the term of the Charter because Truebright did not make AYP for two of the five years of the term of the charter, contrary to the commitment in its charter. N.T. 535-537; SD Ex. 3, p. 2; 30 pp. 6-9.

#### **CONCLUSIONS OF LAW**

1. CAB has jurisdiction in this matter. 24 P.S. § 17-1729-A.
2. The Charter School Law governs the application process, the approval process, the revocation/renewal of charters and the operation of charter schools in Pennsylvania. 24 P.S. § 17-1701-A, *et seq.*
3. The intent of the General Assembly in enacting the CSL was, *inter alia*, to establish and maintain schools that improve pupil learning, to increase learning opportunities for

all pupils, and to hold charter schools accountable for meeting measurable academic standards.

24 P.S. §17-1701-A.

4. At the end of the term of a charter, the local board of school directors of a school district may choose not to renew the charter of a charter school based on any of the following:

- i. One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 17-1720-A.
- ii. Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A.
- iii. Failure to meet generally accepted standards of fiscal management or audit requirements.
- iv. Violation of provisions of this article.
- v. Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.
- vi. The charter school has been convicted of fraud.

24 P.S. § 17-1729-A(a).

5. The school board must give notice of nonrenewal of the charter to the governing board of the charter school, which notice must state the grounds for such action with reasonable specificity and must give reasonable notice of the date on which a public hearing concerning the written nonrenewal will be held. 24 P.S. § 17-1729-A(c).

6. The school board must conduct a hearing, present evidence in support of the

grounds for nonrenewal stated in its notice and give the charter school reasonable opportunity to offer testimony before taking final action. 24 P.S. § 17-1729-A(c).

7. The school board must take formal action regarding the nonrenewal of a charter school at a public meeting pursuant to the act of July 3, 1986 (P.L. 388, No. 84), known as the “Sunshine Act,” after the public has had thirty (30) days to submit comments to the school board. All proceedings of the school board pursuant to this subsection are subject to the Local Agency Law, 2 Pa.C.S. Ch.5 Subchapter B. 24 P.S. § 17-1729-A(c).

8. The District complied with all the procedural requirements of the CSL set forth in section 17-1729-A(c). 24 P.S. § 17-1729-A(c).

9. In determining whether a school district’s non-renewal of a charter is appropriate, CAB shall give due consideration to the findings of the local board of school directors and specifically articulate reasons for agreeing or disagreeing with the board. 24 P.S. § 17-1729-A(d); *see also West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 1172, 1180 (Pa. 2002).

10. In determining whether the revocation of a school’s charter was appropriate, CAB shall review the record made in the proceedings below and may supplement the record at its discretion with information that was previously unavailable. 24 P.S. § 17-1729-A(d).

11. In addition to the record, CAB may consider the charter school plan, annual reports, student performance and employee and community support for the charter school. 24 P.S. § 17-1729-A(d).

12. Because the statutory standards for review of charter non-renewals are the same as those for the review of charter denials, CAB shall make a de novo review of the school district’s non-renewal of the Charter. *Compare* 24 P.S. § 17-1717-A(i)(6) *with* 24

P.S. § 17-1729-A(d); *see also*, *West Chester Area School District*, 812 A.2d at 516-17.

13. The Charter School Law places the burden of proof on the school district to present substantial evidence to support its reasons for non-renewal of a charter. *See* 24 P.S. § 17-1729-A(c).

14. In this case, the District met its statutory obligations under the CSL. *See* 24 P.S. § 17-1729-A(c).

15. Once a charter is granted, the charter school is required to comply with the terms and conditions contained in the charter, as well as the school's charter school application, which is incorporated into the charter. 24 P.S. § 17-1720-A.

16. Truebright failed to meet the requirements for student performance as set forth in 22 Pa. Code Ch. 4, and its subsequent regulations, and as set forth in Truebright's written charter. 24 P.S. § 17-1729-A(a)(2); 24 P.S. § 17-1702-A(6).

17. Truebright failed to meet performance goals in its charter application, which was incorporated into its charter.

18. Following an independent review of the record before CAB and after giving due consideration to the findings of the SRC, CAB finds that the nonrenewal of Truebright's charter was proper and is supported by evidence in the record.

#### **IV. DISCUSSION**

##### **A. STANDARD OF REVIEW**

The Pennsylvania General Assembly enacted the CSL to provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system. It was the intent of the Legislature that charter schools improve pupil learning, increase learning opportunities for all students and offer diverse and innovative educational

techniques while operating independently of the traditional public school system. *See* 24 P.S. § 17-1702-A. In addition, the General Assembly intended to hold charter schools “accountable for meeting measurable academic standards,” in order to assure that these schools were accomplishing the goals of the CSL. 24 P.S. § 17-1702-A(6). The charter school application process is rigorous as the intent of the CSL is to improve educational opportunities for students. *See generally*, 24 P.S. §§ 17-1719-A, 17-1702-A. When a charter is granted by a local board of school directors, the charter school is required to comply with the terms and conditions of the charter, as well as the information contained in the charter school application, which is incorporated into the charter. 24 P.S. §§ 17-1720-A, 17-1729-A(a)(1).

Section 1729(a) of the CSL sets forth the causes for nonrenewal or termination of the charter by a school district. Those causes include:

- (1) One or more material violations of any conditions, standards or procedures contained in the written charter.
- (2) Failure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5 or failure to meet any performance standard set forth in the written charter.
- (3) Failure to meet generally accepted standards of fiscal management or audit requirements.
- (4) Violation of provisions of [the Charter School Law].
- (5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.
- (6) The charter school has been convicted of fraud.

*See*, 24 P.S. § 17-1729-A(a). In order to legally terminate or not renew a charter, a school district must prove that a charter school violated at least one of these provisions.

CAB applies a *de novo* standard of review when entertaining appeals from a School 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 School District*, 812 A.2d at 1172. The CSL requires that CAB “give

‘appropriate consideration’ to the findings of the School District Board, while making an independent determination as to the merits of the charter school application.” *West Chester Area School District*, 812 A.2d at 1180. Since the standard of review for appeal of the nonrenewal of a charter school’s charter is the same, *compare* 24 P.S. § 17-1729-A(d) with 24 P.S. §17-1717-A(i)(6), the review in this matter is also a *de novo* review. CAB is required to independently review the findings of the school board for nonrenewal of Truebright’s charter in light of the record while giving “due consideration” to them, and then specifically articulate its reasons for agreeing or disagreeing with those findings. 24 P.S. § 17-1729-A(d).

**B. TRUEBRIGHT FAILED TO MEET THE REQUIREMENTS FOR STUDENT PERFORMANCE AS SET FORTH IN CHAPTER 4 OF THE STATE BOARD OF EDUCATION REGULATIONS.**

The District argues that Truebright failed to meet the standards for student performance set forth in law and in Truebright’s own charter. In defense of this contention, Truebright argues that it has outperformed many of the district schools in its catchment area and it has generally shown a trend of upward performance.

Section 1729-A(a)(2) of the Charter School Law states that a school district may choose to nonrenew a charter based upon “[f]ailure to meet the requirements for student performance set forth in 22 Pa. Code Ch. 5...or subsequent regulations [i.e. Chapter 4]....” 24 P.S. § 17-1729-A(a)(2). The Charter School Law requires charter schools to participate in the requirements of Pennsylvania’s System of School Assessment (PSSA) found in Chapter 4<sup>2</sup> of the Pa. Code, *see* 22 Pa. Code §§ 4.1-4.83; 24 P.S. §§ 17-1715-A(8) and 17-1729-A(a)(2). The purpose of Chapter 4 is “to establish rigorous academic standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined.” 22 Pa. Code §4.2; *see also* 24 P.S. §17-1702-A(6). Section

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<sup>2</sup> Chapter 4 has replaced 22 Pa. Code Ch. 5. *See Sugar Valley Rural Charter School*, CAB Docket No, 2004-04, 9.



4.51 of the regulations requires schools to demonstrate that their students are proficient or better on the PSSA tests every year, pursuant to the mandates of the No Child Left Behind (NCLB) Act. 22 Pa. Code §4.51(a)(1). The General Assembly, consistent with its expression of intent to hold charter schools accountable for meeting measurable academic standards, provided that one of the bases for nonrenewal of a charter was the failure to meet the requirements for student performance as set forth in Ch. 4 of the State Board of Education regulations. 24 P.S. § 17-1729-A(a)(2).

Pennsylvania's performance standards are associated with the NCLB and are found in 22 Pa. Code Ch. 4, 22 Pa. Code Ch. 403, and Pennsylvania Consolidated State Application Accountability Workbook (hereinafter "Accountability Workbook").<sup>3</sup> In order to comply with the mandates of the NCLB, PDE developed the Accountability Workbook, which has been approved by the United States Department of Education. The requirements set forth in Pennsylvania's accountability system apply to all public schools, including charter schools. 22 Pa. Code §403.3(a).

The Workbook establishes that the only way to achieve AYP is through the use of PSSA scores. Thus, it is reasonable for CAB to rely on PSSA results as this is a uniform test used statewide to measure performance. *Ronald H. Brown Charter School v. Harrisburg City School District*, 928 A.2d 1145, 1153 (Pa. Cmwlth. 2007). In *Career Connections Charter High School v. School District of Pittsburgh*, the Commonwealth Court held that "a consistently low percentage of students scoring proficient or better on the PSSA constitutes a failure to satisfy Chapter 4 student performance requirements and is a valid ground for nonrenewal of a school's charter where the charter school's proficiency rates are lower than those of its school district's schools as a whole and no clear pattern of significant improvement in its PSSA results is shown."

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<sup>3</sup> These were the standards and measures of achievement in place at the time of the District's nonrenewal.

*Career Connections Charter High School v. School District of Pittsburgh*, 91 A.3d 736 (Pa. Cmwlth. 2014).

Similar to *Career Connections*, Truebright has had a consistently low percentage of students scoring proficient or better on the PSSA and has shown no clear signs of improvement. Findings of Fact (FF) 30-38. The number of students scoring advanced or proficient in reading has been virtually unchanged from Truebright's first year of operation. FF 34. Additionally, each year the number of Truebright students scoring advanced or proficient in reading has been significantly below the state goal. FF 34. While there have been signs of progress in the number of students advanced or proficient in math, it also is still well below the state goals. FF 34. This is true even for the years that Truebright made AYP. Additionally, Truebright's number of students scoring advanced or proficient in reading and math falls below the District's average.

In addition to Truebright's consistently low percentage of students scoring advanced or proficient in math or reading, Truebright's percentage of students scoring basic or below basic in reading and math has remained consistent throughout its years of operation. FF 35. For example, in the 2007-08 school year, 36% of Truebright students scored below basic in reading. In the 2011-12 school year, 37% of Truebright students scored below basic in reading. FF 35. This number was virtually unchanged in the five years of the charter school's operation. Additionally, in the 2007-08 school year, 55% of Truebright students scored below basic in math. FF 35. In the 2011-12 school year, 40% of Truebright students scored below basic in math. FF 35. While this number has slightly improved, it still exhibits a large number of Truebright students that are scoring below basic in both reading and math. Furthermore, Truebright's PVAAS data shows that in 2011 there was significant evidence that the school did not meet the standard for PA Academic Growth. FF 37. These figures belie Truebright's

assertion that Truebright has improved its academic performance year after year with a consistent general trend of upward performance.<sup>4</sup>

**C. TRUEBRIGHT FAILED TO MEET THE REQUIREMENTS FOR STUDENT PERFORMANCE AS SET FORTH IN ITS WRITTEN CHARTER.**

Failing to meet a performance goal stated in the school's charter is also a ground for nonrenewal. See *Graystone Academy Charter School v. Coatsville Area School District*, 99 A.3d 125, 139 (Pa. Cmwlth 2014). Section 1729-A(a)(2) of the Charter School Law states that a school district may choose to nonrenew a charter based upon "failure to meet any performance standard set forth in the written charter signed pursuant to section 1716-A". 24 P.S. § 17-1729-A(a)(2). In *Graystone*, the Court held that "a charter school is statutorily required to include in its charter application: its 'mission and educational goals, the curriculum to be offered and the method of assessing whether students are meeting educational goals.'" *Id.* (quoting 24 P.S. § 17-1729-A).

Truebright stated in its charter that it "acknowledges and agrees that failure to meet the accountability criteria specified below, in whole or in part, constitutes grounds for revocation of this Charter...[including] to make AYP consistent with the Pennsylvania Department of Education's Accountability System pursuant to the No Child Left Behind Act for each year during the five year Term of this Charter." FF 30. Despite this performance standard specifically set forth in its charter, Truebright failed to make AYP during the 2007-08 and 2010-11 school years. FF 32. Thus, Truebright made a commitment in its charter that it has violated.

Additionally, Truebright's charter application, which is incorporated into the written charter as a matter of law, contained academic goals that it violated. Truebright committed to

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<sup>4</sup> Truebright also argues that it has outperformed many of the district schools in its catchment area. However, the comparison of Truebright's scores to the scores of the district schools in its catchment area is immaterial considering the small number of students that attend Truebright from the catchment area (approximately 16 percent).

increasing student proficiency in PSSA scores by twenty percent in both math and reading in its charter application. FF 41. However, this academic goal was not met, as well as another academic goal related to conventions of Standard English in speech in writing. FF 41-44. As such, CAB agrees with the District's decision to not renew Truebright's charter because it has failed to meet performance standards as required by law and its own written charter.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION  
STATE CHARTER SCHOOL APPEAL BOARD

TRUEBRIGHT SCIENCE ACADEMY  
CHARTER SCHOOL

v.

THE SCHOOL DISTRICT OF  
PHILADELPHIA AND SCHOOL REFORM  
COMMISSION

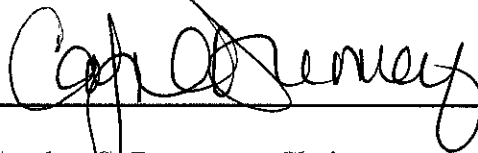
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CAB No. 2013-11

ORDER

AND NOW, this 8<sup>th</sup> day of January 2015, based upon the foregoing and the vote of this Board<sup>5</sup>, the appeal of the Truebright Science Academy Charter School is **DENIED**. This decision will become effective as of the last day of the school year in order to allow the students enrolled in the Truebright Science Academy Charter School to complete the spring term of the 2014-15 school-year. At that time, Truebright Academy Charter School is directed to dissolve as provided for in the Charter School Law.

For the State Charter School Appeal Board



Carolyn C. Dumaresq, Chair

*Date of mailing:*

January 8, 2015

<sup>5</sup> At the Board's meeting of December 9, 2014, the Board voted to deny the appeal by a vote of 7-0 with Board Members Bracey, Cook, Dumaresq, Miller, Munger, Peri, and Yanyanin voting.