

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION**

STATE CHARTER SCHOOL APPEAL BOARD

In Re: Bear Creek Community Charter School	:	
Appeal from Denial of Charter School	:	
Application by the Wilkes-Barre Area	:	Docket No. CAB 2003-3
School District	:	

OPINION AND ORDER

I. BACKGROUND

This matter comes before the State Charter School Appeal Board ("CAB") on appeal filed by the Bear Creek Community Charter School ("Bear Creek") pursuant to Section 17-1717-A(g) of the Charter School Law ("CSL"), Act of June 19, 1997, P.S. 225, No. 22 (24 P.S. §17-1717-A(g)). The appeal was filed due to the Wilkes-Barre Area School District ("School District") denying Bear Creek's Charter School Application that was filed on November 14, 2002.

II. FINDINGS OF FACT

A. Introductory Information

1. Petitioner is the founding coalition applying for Bear Creek.
2. Bear Creek was developed from a group of concerned community members who formed the non-profit organization on August 15, 2002. *Certified Record, Vol. I, at p. 72.*
3. Respondent is the School District, a second-class school district encompassing 115.1 square miles in Luzerne County, Pennsylvania. *Certified Record, at p. 586.*
4. Bear Creek submitted its timely Application for Grant of Charter to the School District on November 14, 2002. *Certified Record, at p. 584.*

5. Pursuant to 24 P.S. §17-1717-A(d), the School District's Board of School Directors held a public hearing on Bear Creek's Application on December 19, 2002. *Certified Record*, at pp. 207-262.
6. On March 3, 2003, the School District held a second duly advertised public meeting regarding the Application. *Certified Record*, at pp. 441-583.
7. On March 3, 2003, Bear Creek submitted additional curriculum information to the School District. *Supplementary materials submitted to the School District on March 3, 2003*.
8. At the March 3, 2003 meeting, the School District denied the Application by a 7 to 2 public vote and described the deficiencies of the Application as required by the CSL. *Certified Record*, at pp. 571-581.
9. Thereafter, the School District provided Bear Creek with a letter of deficiencies outlining its reasons for denying the Application as required under Section 1717-A(e)(5) of the CSL. *Certified Record*, at pp. 584-602.
10. Pursuant to Section 1717-A(h)(2), Bear Creek obtained signed petitions and submitted them to the Court of Common Pleas of Luzerne County. 24 P.S. §17-1717-A(h)(2).
11. The Court determined that the petitions were valid and otherwise satisfied the requirements of Section 1717-A(h)(5) of the CSL. 24 P.S. §17-1717-A(h)(5).
12. Bear Creek properly filed a Petition for Appeal with CAB on May 8, 2003.
13. CAB appointed a hearing officer who received: (1) a copy of supplemental information provided to the School District on December 9, 2002; (2) letters and signatures from the December 27, 2002 public

hearing submitted to counsel for the School District on that same date; and, (3) supplemental budgetary and miscellaneous information provided to the School District at its March 3, 2003 hearing.

14. At its June 26, 2003 meeting, CAB heard oral arguments regarding Bear Creek's appeal.
15. The respective parties submitted briefs on or about July 2, 2003.
16. The address of the physical facility of the school identified in the Application is 2000 Bear Creek Boulevard, Bear Creek, Pennsylvania. *Supplementary materials submitted to the School District on December 9, 2002.*
17. The property consists of over 4 acres and a permanent school building with a parking lot located on Route 115.
18. A description of the physical facility was provided in the course of the public hearings. *Certified Record, Vol. II, pp. 273-275.*
19. Ownership arrangements are described in the Letter of Intent for Transfer of Property submitted with the Application. *Certified Record, Vol. I, p. 191.*
20. The School District is comprised of Bear Creek Township, Bear Creek Village, Buck Township, Plain Township, the City of Wilkes-Barre, Wilkes-Barre Township and portions of Laurel Run Borough and Laflin Township, Luzerne County, Pennsylvania. *Certified Record, at p. 586.*
21. Through the end of the 2001-2002 school year, the School District operated seven (7) elementary schools – Bear Creek, Daniel J. Flood, Dodson, Dr. David W. Kristler, Heights/Murray, Mackin and Solomon/Plains Elementary Schools – and four (4) secondary schools – Elmer L. Meyers, G.A.R. Memorial, James A. Coughlin Junior-Senior

High Schools and the Solomon/Plains Junior High School. *Certified Record*, at p. 587.

22. The School District voted to close the Bear Creek and Mackin Elementary Schools after the 2001-2002 school year to address an anticipated 3 million dollar budget deficit for the 2002-2003 school year. The projected annual savings from the closure of the Bear Creek Township and Mackin Elementary Schools was estimated at 1.4 million dollars. *Certified Record*, at p. 587.
23. The Bear Creek Elementary School served elementary students living within Bear Creek Township, Bear Creek Village and Buck Township.
24. The Bear Creek Elementary School was built as a WPA Project in the 1930s and, more recently, the School District installed modular classrooms on that school site.
25. The School District removed the modular facilities attached to the permanent building subsequent to June 2002.
26. Members of the founding coalition initiated contact with several educational management organizations and received presentations from three management companies. *Certified Record, Vol. 1*, p. 33.
27. Bear Creek contracted with Charter Schools USA, a professional education management organization to assist with the development of the charter school. *Certified Record, Vol. I*, p. 33; *Vol. II*, pp. 277-279.
28. On April 16, 2002, April 29, 2002, May 9, 2002 and November 6, 2002, the founding coalition held public meetings to present information to interested parents about the proposed charter school, which meetings attracted an attendance of approximately 223 people. *Certified Record, Vol. 1*, pp. 157-167; 239.

29. Bear Creek described its curriculum in the Educational Program section of the Application. *Certified Record, Vol. I*, pp. 7-23.
30. Bear Creek described its budget and financial plan in the Application and supplementary materials. *Certified Record, Vol. I*, pp. 178-186; *Supplementary materials submitted to the School District on March 3, 2003*.
31. Bear Creek described its professional development plan in the Application. *Certified Record, Vol. I*, p. 42.
32. Bear Creek submitted petitions of support containing the names of 170 persons. *Certified Record, Vol. I*, pp. 140-151.
33. As of December 2002, 30 individuals committed donations of supplies and materials and 25 donations of money ranging from \$10.00 to \$1,000.00 to Bear Creek. *Certified Record, Vol. II*, pp. 232-235; *Supplementary materials submitted to the School District on December 9, 2002*.
34. Bear Creek also submitted a total of 34 emails and letters of support from residents, parents, and businesses and supplemental information to the School District, receipt of which was evidenced by UPS tracking numbers and signature of the School District's agent on December 9, 2002. *Certified Record, Vol. I*, pp.122-139; 176-177; *Vol. II*, pp. 211-235; *Supplementary materials submitted to the School District on December 9, 2002*.
35. On December 18, 2002, Bear Creek submitted 140 pre-enrollments from parents interested in enrolling their children in the proposed charter school. *Certified Record, Vol. II*, pp. 227-231; *Supplementary materials submitted to the School District on December 9, 2002*.

36. On December 24, 2002, Bear Creek submitted additional information to the School District in the form of a list of supporters who attended the December 19, 2002 public hearing, receipt of which was evidenced by UPS tracking numbers and signature of the School District's agent. *Supplementary materials submitted to the School District on December 24, 2002.*

B. Support from Community

37. The School District rejected the following documents as indicating support for the charter school plan because they pre-dated the submission of the Bear Creek Application or because there was no way to determine whether the documents were supportive of the Application:

- 1) An undated petition entitled: "We the undersigned are in favor of keeping a school in Bear Creek/Buck Township" with 130 signatures and phone numbers. *Certified Record*, at pp. 153-156, 590.
- 2) Four pieces of paper entitled "Sign in April 16, 2002 6:30 pm" with 136 signatures and phone numbers. *Certified Record*, at pp. 157-161, 590.
- 3) Two pieces of paper entitled "Sign in 4/29/02" with 35 signatures and phone numbers. *Certified Record*, at pp. 162-163, 590.
- 4) One piece of paper entitled "May 9, 2002 7pm" with 23 signatures. *Certified Record*, at pp. 164 and 590.
- 5) Three pieces of paper with no date entitled "Safety," "Charter Schools" and another without a title containing signatures. *Certified Record*, at pp. 165-168, 590.

C. Support from Teachers

38. No School District teachers spoke in favor of the Bear Creek Application at the December 19, 2002 public hearing. *Certified Record*, at pp. 207-262.
39. The Bear Creek Application included one email indicating a person believed to be a School District teacher was an “invisible” supporter of Bear Creek. The Supplemental Information contains one letter from a former Bear Creek Elementary teacher supporting Bear Creek. Neither the letter, nor email indicates whether those individuals are School District residents. *Certified Record*, at p. 129.
40. A member of Bear Creek’s Board of Trustees, Ms. Salerno, is a former School District teacher. However, Ms. Salerno acknowledges that she does not reside within the School District. *Certified Record*, at pp. 050, 079, and 271.
41. The School District found that no teacher within the School District expressed support for the Application. *Certified Record*, at p. 590.

D. Planning

42. Bear Creek proposes to use the 70-year-old former Bear Creek Elementary School as its school site. *Certified Record*, at pp. 037, 038, 335, and 474.
43. The Bear Creek Application states that the applicant group has “determined the needed renovations to make the facility comply with all applicable codes.” *Certified Record*, at p. 037.
44. Bear Creek has not determined if there are any zoning issues that would have to be addressed before the site could be “re-opened” as a charter school. *Certified Record*, at pp. 532 and 593.

45. Bear Creek has not explained or determined how the school site would be brought into compliance with the Americans with Disabilities Act of 1990 since the school will no longer be “grandfathered” from compliance with the ownership change. *Certified Record*, at pp. 335, 475, 547-548, 593.

E. Management Agreement

46. Bear Creek received a \$25,000.00 charter school-planning grant from the Pennsylvania Department of Education (“PDE”) to develop its Application.
47. The Application contains a management agreement with the Charter School USA at Bear Creek, L.C. (“CSUSA at Bear Creek”). *Certified Record*, at pp. 434-441.
48. Section 4.1.9 of the management agreement provides for the payment of a “development fee” in the amount of \$112,500.00 to CSUSA at Bear Creek, if Bear Creek receives a charter under the CSL. *Certified Record*, at p. 111.
49. The \$112,500.00 development fee is equal to 6.7% of Bear Creek’s anticipated first-year revenue. That amount grossly exceeds the grant received from the PDE to develop the Application. *Certified Record*, at p. 595.
50. The management agreement refers to “additional services,” which are purportedly described and priced in an addendum to the agreement, but the addendum was not included in the Application. *Certified Record*, at p. 113.
51. The Application states Bear Creek “will focus on providing innovative curriculum, high end technology and environmental stewardship in a

rural setting.” Bear Creek proposes to “utilize Core Curriculum developed by Charter School USA.” *Certified Record*, at pp. 003, 007.

F. Technology

52. The Application states Bear Creek will use “high end technology” to infuse its curriculum. *Certified Record*, at pp. 005, 007, and 008.
53. The School District found that the Application failed to explain how technology would be used as part of the curriculum or set forth a technology plan to procure computers and other related equipment. *Certified Record*, at pp. 325-328, 471-474.
54. The School District relied upon the testimony of its Technology Coordinator, Ms. Kordek, who pointed out the following deficiencies in the Application:
 - a. The Application fails to contain a technology plan. *Certified Record*, at pp. 325, 471.
 - b. The Application’s budget does not contain a line item for technology support. *Certified Record*, at pp. 325, 471.
 - c. The Application does not propose a computer lab at the school facility or make desktop units available to teachers. *Certified Record*, at pp. 325, 472.
 - d. The Application fails to describe a staff development program in technology. *Certified Record*, at pp. 327, 471.

G. Budget

55. The Application indicates that full-time Bear Creek staff “will be eligible to participate in the school’s medical and dental plans.” The Application further states fringe benefits “coverage shall be similar to coverage provided to employees of the local school district.” *Certified Record*, at pp. 038, 042.

56. Section 1724-A(d) of the CSL requires that Bear Creek employees must be provided the "same health care benefits" as the local school district. *24 P.S. § 1724-A(d)*.
57. Section 1724-A(c) of the CSL requires Bear Creek employees be enrolled in the Public School Employee's Retirement System ("PSERS"). *24 P.S. § 1724-A(c)*.
58. Mr. Scoda explained that the Application provides that Bear Creek employee fringe benefits will cost approximately 17% of salaries. *Certified Record*, at pp. 313, 448.
59. Similarly, Bear Creek's employer contributions for Social Security, workers' compensation and unemployment compensation are not negotiable, but are set by law and therefore should be comparable to the School District's costs.
60. The School District found the Bear Creek's fringe benefit figures to be unrealistic based upon Bear Creek's own representations and the requirements of the CSL regarding health insurance and retirement benefits.
61. The Application indicates that Bear Creek will have a library, but there are no funds earmarked in the proposed budget for library books, supplies, subscriptions or necessary equipment. *Certified Record*, at pp. 313, 449.
62. The Application states that Bear Creek "will secure general liability, errors and omissions coverage, Officer and Director Liability, employee liability, property insurance and workman's compensation insurance." *Certified Record*, at p. 038.
63. There is no provision in the proposed budget for such insurance coverage. *Certified Record*, at pp. 313, 449.

III. CONCLUSIONS OF LAW

1. The CSL, Act of June 19, 1997, P.L. 225, No. 22 (24 P.S. §§17-1701-A *et. seq.*) governs the grant or denial of a charter application by a school district in the Commonwealth of Pennsylvania.
2. The Pennsylvania General Assembly enacted the CSL to provide school children with additional opportunities to attend public schools that offer diverse and innovative educational techniques and operate independently of the traditional public school system. 24 P.S. §17-1702-A.
3. Section 1717(e)(2) of the Charter School Law sets forth the criteria under which a school district is to evaluate an application for a charter. 24 P.S. §17-1717-A(e)(2).
4. The Appeal Board must give "due consideration" to the findings of the local school board, but the Appeal Board is also free to agree or disagree with those findings. 24 P.S. §17-1729(d).
5. The Commonwealth Court has held that CAB's standard of review is "*de novo*" review. *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452 (Pa.Cmwlt. 2000).
6. A school district must evaluate a charter application in order to ensure that there is demonstrated, sustainable support for the charter school by teachers, parents, other community members and students. 24 P.S. §17-1717-A(e)(2)(i).
7. Evidence of support is to be measured in the aggregate. *In re: Ronald Brown Charter School*, Docket No. CAB 1999-1 at p. 18; *In re: Souderton Charter School Collaborative*, Docket No. CAB 1999-2 at p. 12; *In re: Leadership Learning Partners Charter School*, Docket No. CAB 2000-8 at p. 9.

8. In considering a charter application, a school district must evaluate whether the charter school will be capable of providing the comprehensive learning experience that it proposes in the application. 24 P.S. §17-1717-A(e)(2)(ii).
9. The CSL requires that a charter school submit a financial plan as part of its application. 24 P.S. §17-1719-A(9).
10. CAB has held that Section 1719-A(5) of the CSL requires that a charter school applicant “describe a curriculum of some substance. Goals and guidelines as to what the curriculum may be in the future are insufficient.” *In re: Environmental Charter School*, CAB Docket No. 1999-4 at p. 14.
11. The Application fails to explain how planned instruction fulfills Chapter 4 requirements. *22 Pa. Code s 4.11(h)*.
12. The Application fails to explain beyond general pronouncements how CSUSA’s Core Curriculum offers comprehensive planned instruction as required by Chapter 4 of the State Board of Education regulations. *Certified Record*, at pp. 315-324.
13. The Application’s description of particular curriculum areas lacks any substantive explanation of how the curriculum for those subject matters complies with the Pennsylvania academic standards. *Certified Record*, at pp. 315-324.
14. The Application does not explain how Bear Creek would deliver special education services to students other than to say Bear Creek will “contract out” for those services or comply with the requirements of the No Child Left Behind Act. *Certified Record*, at pp. 336-338, 599.

IV. DISCUSSION

This matter comes to CAB pursuant to the Petition for Appeal filed by Bear Creek on May 8, 2003, in accordance with Section 17-1717-A(g) of the CSL.

The Pennsylvania General Assembly enacted the CSL to provide school children with additional opportunities to attend public schools that offer diverse and innovative educational techniques and that operate independently of the traditional state public school system. See 24 P.S. §17-1702-A. Section 1717(e)(2) of the CSL sets forth the criteria under which a school district is to evaluate an application for a charter. Those criteria include:

- (i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at a public hearing on the charter application.
- (ii) The capability of a charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the charter.
- (iii) The extent to which the application considers the information requested in Section 1719 of the Charter School Law (24 P.S. §17-1719-A) and conforms to the legislative intent outlined in Section 1702 of the Charter School Law (24 P.S. §17-1702-A).
- (iv) The extent to which the charter school may serve as a model for other public schools.

See 24 P.S. §17-1717-A(e)(2).

In order to have proper legal authority to deny a charter application, a school district must demonstrate that the application and other information submitted by the charter school is deficient under at least one of the criterion enumerated above.

A. Supplementation of the Record

On June 9, 2003, the School Board transferred the contents of the certified record to the Department of Education's Office of Chief Counsel.

On June 18, 2003, the hearing officer convened a telephonic conference. One of the items discussed at the telephonic conference was whether the parties had decided to supplement the previously forwarded record. Bear Creek indicated a desire to supplement the record with three sets of documents: (1) a copy of supplemental information provided to the School District on December 9, 2002; (2) letters and signatures from the December 27, 2002 public hearing submitted to

counsel for the School District on that same date; (3) supplemental budgetary and miscellaneous information provided to the School District at its March 3, 2003 hearing.¹

The School Board argues that CAB should decline to accept Bear Creek's proposed supplemental material, arguing that Section 1717-A(i)(6) of the CSL permits CAB "to allow the local school board of directors and the charter school applicant to supplement the record **if the supplemental information was previously unavailable.**" [Emphasis added].

CAB finds credible evidence that the first two items were transmitted to the School District via United Parcel Service and signed for by someone at the School District. CAB also finds credible evidence that the third item was handed out to each Board member at the public hearing of March 3, 2003. It appears that through oversight this material was not included in the original certified record and should be included. Thus, CAB admits this information into the record.

B. Standard of Review

The CSL, 24 P.S. §17-1717-A, *et seq.* allows a charter school applicant to appeal to CAB from a school district's denial of a charter to the applicant. As previously stated, the CSL requires that CAB give due consideration to the school district's findings, but CAB's standard of review is *de novo*.

¹ On appeal, Bear Creek contends that the School District introduced new evaluation criteria and raised questions so late in the review process, that Bear Creek was denied due process and the opportunity to respond to and rebut the School District's concerns. It is noted that Bear Creek sought to supplement the record and those items have been admitted into the record. Bear Creek did not request that any additional submissions be admitted. Since CAB's denial of Bear Creek's appeal is based on criteria delineated in the CSL (*See discussion infra*), CAB does not need to address any School District criteria that Bear Creek alleged to be beyond the scope of the law.

C. Sustainable Support

Section 17-1717-A(e)(2)(i) of the CSL requires an applicant for a charter school to demonstrate sustainable support for the charter school plan by teachers, parents, other community members and students. "Sustainable support" means support sufficient to sustain and maintain a proposed charter school as an ongoing entity. (*Ronald Brown Charter School*, Docket No. CAB 1999-1).

Case law provides that the lack of support in one category cannot form the basis of a finding that the charter school failed to demonstrate sustainable support. *Joyce Brackbill and Mary Fuhrman v. Ron Brown Charter School*, No. 3220 C.D. 1999 (Commw. Ct. May 23, 2001). From the record, it appears that the School District properly found that no teachers within the School District expressed support for the Bear Creek Application and that no School District teacher spoke in favor of the Application at the public hearings. Credible evidence of teacher support is limited to one letter in the supplemental material from a former Bear Creek Elementary teacher supporting the charter school, and membership of a former School District teacher on the Bear Creek's Board of Trustees. Despite this negligible teacher support, it is not fatal if there is sufficient support demonstrated in the aggregate.

Bear Creek did submit evidence of support from interested parents and community members. Approximately 223 people attended the meetings in April, May and November of 2002. Bear Creek submitted petitions of support containing the names of 170 persons, and approximately 34 emails and letters in support from residents, parents and businesses. The certified record indicates 140 pre-enrollments from parents interested in enrolling their children in the proposed charter school.

The School District, in its decision, rejected much of this support, finding that much of the material pre-dated the Application. However, CAB finds that the record demonstrates sustainable support for Bear Creek. Bear Creek provided

documentation of 140 pre-enrollments and 34 emails and letters of support for Bear Creek. In addition, at least 30 people donated supplies and materials and 25 people donated money to Bear Creek. This is sufficient to demonstrate sustainable support.

The School District also presented evidence of the declining population pool for children eligible to attend Bear Creek. It further provided evidence that the former Bear Creek Elementary School enrollment reached 250 students only twice in the last 6 school years, and no later than the 1998-1999 school year. Since 1999, the student enrollment of Bear Creek Elementary School has declined.

However, the School District's population projections for Bear Creek Elementary School were limited to the School District's residents who lived in that attendance zone. Charter schools are not so limited since they can accept students from any part of the Commonwealth. Therefore, students both who live outside of the former Bear Creek attendance zone and also outside the School District can attend Bear Creek if seats remain available after all students residing in the School District who wish to attend are admitted.

Thus, CAB rejects the School District's finding that Bear Creek failed to demonstrate sustainable support.

D. Capability in Terms of Support and Planning to Provide Comprehensive Learning Experiences

Section 17-1717-A(e)(ii) indicates that a charter application will also be evaluated for the capability of the charter school applicant in terms of support and planning to provide comprehensive learning experiences to students.

In its determination denying the Charter Application, the School District concluded that the Bear Creek Application was deficient in this regard. While CAB does not agree with nor adopt all of the School District's rationale, CAB does concur

in the result and finds that Bear Creek has not met its burden under Section 1717-A(e)(ii).

We have previously noted that a detailed facility plan is not required under the CSL. *In re: Environmental Charter School Appeal from Denial of Charter by Palisades School District*, CAB Docket No. 1994-14. Yet while specifically detailed plans are not necessary for issuance of a charter, the applicant must at least identify or acknowledge when it is obvious that work will be required in certain respects. (See, *In re: Leadership Learning Partners Charter School*, CAB Docket No. 2000-8, where the applicant identified and submitted a proposal to deal with building issues). Here, the record is lacking in this regard.

Bear Creek proposes to use the former Bear Creek Elementary School site for its operation. The school building is 70 years old, and Bear Creek acknowledges that some renovation and space issues will need to be addressed. We find the record, however, to be inadequate as to Bear Creek's plan to address those issues.

The School District, in its determination, noted that there might be zoning issues and issues regarding compliance with the Americans with Disabilities Act ("ADA") in reopening the 70-year-old facility. Bear Creek does not rebut this finding, but simply indicates that it has plans to address the ADA issues. However, Bear Creek has not explained or determined how the site would be brought into compliance. Bear Creek also has not determined whether the zoning issue will be problematic or how it will address water quality problems with the wells serving the school site.

Further, the record indicates that the site may be unable to accommodate the proposed enrollment for Bear Creek. The former elementary school included and used modular classrooms in order to meet the needs of all its students. Presumably, Bear Creek will address this by acquiring its own modular units. However, CAB

should not be forced to make such a presumption, nor surmise how the Bear Creek proposed budget will support such acquisition.

In addition, Bear Creek fails to explain, beyond general pronouncements, how the curriculum offers comprehensive planned instruction to fulfill Chapter 4 requirements. The description of particular subject areas does not explain how the curriculum in those areas meets Pennsylvania standards. Finally, Bear Creek fails to explain how it would deliver special education services to students with disabilities other than to say it will “contract out” for such services.

Bear Creek’s failure to address these issues evidences its inability in terms of support and planning to provide comprehensive learning experiences to students.

E. Financial Planning

Also at question under Section 1717-A(e)(ii) is Bear Creek’s financial planning. The School District found deficiencies in Bear Creek’s proposed budget concerning teacher benefits, acquisition of insurance, and financing for library and technology resources. The School District also voiced its concern regarding the application development fee being paid to Charter Schools USA – Bear Creek and that an addendum of additional services to be provided to Bear Creek by Charter Schools USA was not included in the Application. Together, these concerns, and the failure of the Bear Creek budget to address such issues, are sufficient grounds to reject the application under Section 1717-A(e)(ii).

CAB finds that the budgetary information contained in the record fails to provide a sound financial plan that will enable Bear Creek to operate. Of particular concern is the budget’s inadequacy in ensuring realistic funding to provide required benefits to teachers, and its failure to identify finances to address insurance coverage, and education technology and library learning resources. Further, CAB is not confident that Bear Creek’s budget plan is strong enough to have incurred and

repay a \$112,500.00 application development fee. In addition, Bear Creek referenced an addendum to the Application that was to set forth the description and cost of “additional services.” However, the addendum was not attached and so it is not clear what constitutes “additional services” and what costs these services might entail.

These failures again evidence Bear Creek’s inability in terms of support and planning to provide comprehensive learning experiences to students.

F. Serving as a Model for Other Public Schools

The extent to which a proposed charter school might serve as a model for other schools is another criterion to be considered when deciding whether to grant a charter application. 24 P.S. § 17-1717-A(e)(2)(iv).

In its determination, the School Board found that Bear Creek would not serve as a model for other public schools, indicating that it did not feel the re-establishment of a school at the Bear Creek site was new or innovative. While CAB’s rationale is slightly different, CAB concurs in the School Board’s conclusion.

Bear Creek indicates that it will serve as a model for other public schools for six reasons:

- Environmental and technology focus
- Limit of 25 students per class
- Full-day kindergarten
- Foreign language instruction in all grades
- Core curriculum implemented through precise academic process
- Unparalleled parental and community involvement

In *Delaware Valley Charter High School*, CAB No. 2000-5, we found that while the CSL does not quantify the desired extent of service as a role model, Section 1702-A makes clear that charter schools should improve public education.

While the six factors listed by Bear Creek may serve as a model, Bear Creek has not sufficiently developed the record to demonstrate this. For example, while Bear Creek indicates an environmental and technology focus, CAB finds insufficient detail as to how this focus will be executed and moreover finds that budgetary support for technology is lacking. Likewise, the foreign language component is insufficiently described to evaluate its impact as a model component. "Precise academic process" and "unparalleled parental and community involvement" are mentioned, but not adequately described so as to give concrete meaning to the phrases. Detail on how the class size and kindergarten schedule will differ from other public schools is also lacking.

The insufficient information regarding these issues and the deficiencies discussed previously demonstrate that Bear Creek would not serve as a model for other public schools. Thus, for the reasons set forth herein, the appeal of Bear Creek is denied.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION**

STATE CHARTER SCHOOL APPEAL BOARD

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School District :

ORDER

AND NOW, this 8th day of October 2003, based upon the foregoing and the vote of this Board², the May 8, 2003 appeal of the Bear Creek Community Charter School is DENIED.

For the State Charter School Appeal Board:

_____/s/_____
Vicki L. Phillips
Chairperson

Date Mailed: October 8, 2004

² At the Board's July 14, 2003 meeting, the appeal was denied by a vote of 4-2-1, with members Melnick, Reeves, Salinger and Shipula voting to deny the appeal, and members Bunn and Giorno voting to grant the appeal, and Secretary Phillips abstaining.