

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION**

STATE CHARTER SCHOOL APPEAL BOARD

In Re: Propel Charter School McKeesport :
: **Docket No. CAB 2004-1**
Appeal from denial of charter by :
McKeesport Area School District :

I. INTRODUCTION

On July 18, 2003, pursuant to the Act of June 19, 1997, P.L. 225, No. 22 (24 P.S. 17-1701-A *et seq.*) known as the Charter School Law (hereinafter "CSL"), Propel Charter School McKeesport ("Propel") submitted a Charter School Application ("Application") to the McKeesport Area School District ("School District"). On September 3, 2003 the School District duly conducted a public hearing at which it received testimony from representatives of Propel. On November 13, 2003, the District enacted Resolution No. 822, which notified Propel of the District's denial of the Application.

In accordance 24 P.S. §17-1717-A(h)(2) of the CSL, Propel obtained signed petitions and filed them with the Court of Common Pleas, Allegheny County. On February 26, 2004, the Court Ordered, Adjudged and Decreed that the Petition filed by Propel was sufficient for purposes of filing an appeal with the Charter School Appeal Board ("CAB"). On March 8, 2004, Propel filed a Petition of Appeal to the CAB which was docketed at Docket No. CAB-2004-1. On May 11, 2004, the District filed its Answer to the Petition of Appeal. On April 24, 2004 the CAB appointed a hearing officer to review and develop the record. The Hearing Officer conducted a telephone pre-hearing conference to obtain all documents from Propel and the School District on May 19, 2004, and thereafter certified the record to CAB on June 28, 2004.

For the following reasons we conclude that the Propel met the requirements of the Charter School Law. Therefore, Propel's appeal is granted and the School District will be ordered to sign the Charter.

II. FINDINGS OF FACT

1. Propel Charter School is a Pennsylvania non-profit corporation (Certified Record Exhibit D – Application).¹
2. A description of the physical facility of the proposed school identified in the Application is 332 5th Avenue, McKeesport, Pa (Application, p.14).
3. Propel, at the public hearing conducted by the School District on September 3, 2003, submitted supplemental materials in support of its Application (C.R. Exhibit B).
4. A letter describing the suitability and viability of the facility to be used by the charter school was submitted to the School District in the supplementary materials. (C.R. Exhibit B & D - Additional Letters).
5. A tentative floor layout of the proposed interior of the charter school was provided to the School District on October 2, 2003. (C.R. Exhibit D).
6. Propel was required to show “demonstrated sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing [held before the local school board].”
7. Propel submitted petitions of support containing the names of 497 persons of which 237 were parents who requested enrollment information, 210 of those parents were residents of the School District. In total 423 of the signers were residents of the School District. (C.R. – Exhibit B – Supplemental materials; September 3, 2003 School District Hearing Transcript, p. 13).

¹ References to the Certified Record will be designated as “C.R.” with applicable Exhibit number. All other references shall be to specific documents.

8. Propel also submitted letters of support from foundations, businesses and elected officials. (C.R. Exhibit B – Supplemental materials; Exhibit D – Additional Letters; School District hearing transcript, p.13).
9. At the time of the School District public hearing on September 3, 2003, Propel had not presented any evidence that any students pre-registered had been in the proposed charter school. (Brief of McKeesport, p.3).
10. At the CAB hearing on June 29, 2004, Propel submitted new information regarding pre-enrollment for the charter school. One hundred sixty eight students are listed as applicants for the charter school. (CAB Hearing Transcript, p. 37;).
11. The School District states that approximately 15% of the signatures provided by Propel were from non-residents and 40% of the signatures were from individuals who did not have school-age children. (C.R. Exhibit E – Resolution 822, p.6).
12. Propel has received fund raising commitments in the total amount of \$1,000,000. (C.R. – Exhibit A – Application p. 23).
13. Propel described its budget and financial plan in its Application to the School District and in the supplementary materials (C.R. – Exhibit A – Application, pp 12-13; Additional letters October 2, 2003).
14. The School District states that Propel’s budget fails to contain any provisions for computer-assisted instruction, counseling services, audiovisual services, library services, vision support, tutoring and other remedial services. (C.R. –Exhibit E- Resolution 822, p.23).
15. Propel will provide 190 days of school with 6 hours of instructional time daily. This creates a total of 1140 hours of instruction, 25% more than state-mandated levels for elementary students. (C.R. Exhibit A – Application, p. 14).

16. Propel expects to serve 300 students in grades Kindergarten (full day) to Six in year one. In year two, it will add grade Seven. In year three and subsequent years, Propel expects to serve students in grades K – Eight. (C.R. Exhibit A – Application, p. 2).
17. Propel expects that, at full capacity, the school’s enrollment will not exceed 400. (C.R. Exhibit A – Application, p.2).
18. Propel charter school has three broad goals: Academic accomplishment; Community participation; and cultivation of Personal Power. (C.R. Exhibit A – Application, p. 9).
19. Propel described its curriculum in the School Design Prospectus section of the Application to the School District.
20. Propel will provide four hours of reading, writing and math daily in grades K-4. Propel purposed to use Open Court as its reading program with an enrichment studies program with a series of six-week, one-hour-a-day immersions in the arts, dance, music, drama and sports. (C.R. Exhibit D – Additional Letters – October 2, 2003).
21. The School District believes that its reading program is stronger for various reasons set forth in Resolution 822, p. 7.
22. The School District found that Propel’s student progress assessment program has no defined screening instruments, provides one less report card, provides no interim reports, no teacher-parent conferences and no ongoing assessments. (C.R. Exhibit E – Resolution 822, p. 17).
23. Propel believes that the heart of high performance is continuous improvement. Propel has a streamlined system called “School Propel” for collecting and delivering in-formation regarding student performance, including teacher assessment of student work. (C.R. Exhibit A – Application, pp. 14-15).

24. Propel will provide tutorial and positive behavior support to students. (C.R. Exhibit A – Application, p. 12).
25. Propel’s Board of Trustees will be composed of 7-11 members who are responsible for overseeing the operation of the school. Parents and the community can get involved by way of the School Council, which will determine a budget, review student results, and set the school calendar. (C.R. Exhibit A – Application p. 9).
26. Propel submitted additional information regarding the governance structure of the school during the School District’s hearing and in supplemental correspondence to the District (C.R. Exhibit A – Application, p.9; Exhibit D – Additional Letters October 2, 2003).
27. The Articles of Incorporation were submitted to the School District on October 2, 2003. (C.R. Exhibit – D – Additional Letters, October 2, 2003).
28. Propel described its professional development system in which teachers participate in training and workshops; receive individual coaching in classrooms and, in addition all teachers go through a basic orientation with provides an overview of the school’s instructional strategies. (C.R. Exhibit A- Application p. 17-18; Application - School Design Prospectus, p. 12-13).
29. Propel will take applications to its school by lottery without regard to race or ability or any other improper criterion. (C.R. Exhibit A – Application, p.7).
30. Propel describes the procedures regarding suspension or expulsion in detail in its application to the School District. (C.R. Exhibit A – Application, p.7).
31. In its professional development system, Propel will create two lead teachers, plus designate an additional full time teacher to provide professional development activity (C. R. Exhibit A - Application, p. 18).
32. Teachers will also participate in extended institutes over the summer. (C.R. Exhibit A- Application, p.18).

33. Propel will group students in a flexible manner, mixing them by ability and age so as to allow all children developmental success and facilitate workshop and cooperative learning strategies that take advantage of diverse talents. Multi-aged grouping also has the benefit of allowing children to remain with the same teacher for more than one year (C.R. Exhibit A - Application, p.3).

III. CONCLUSIONS OF LAW

1. The Charter School Law, Act of June 19, 1997, P.L. 225, No.22, 24 P.S. 17-1717-A *et seq.*, governs the application and approval processes and operation of charter schools in Pennsylvania.
2. Propel has the burden of proving that all of the enumerated requirements set forth in §17-1717-A(e)(2) of the CSL have been satisfied.
3. Propel's application demonstrates sustainable support by teachers, parents, other community members and students as required by §17-1717-A(e)(2)(i) of the CSL.
4. Propel's Application reasonably establishes that it has the capacity, in terms of support and planning, to provide a comprehensive learning experience to students as required by §17-1717-A(e)(2)(ii) of the CSL.
5. Propel's Application contains sufficient information to meet the requirements of §17-1717-A(e)(2)(iii), which are the extent to which the application considers the information requested in §17-1719-A and the extent to which it conforms to the legislative intent outlined in §17-1701-A of the CSL.
6. Propel has demonstrated that its proposed charter school may serve as a model for other public schools under §17-1717-A(e)(2)(iv) of the CSL.
7. Propel properly described its curriculum as required by §17-1719-A of the CSL.

IV. DISCUSSION

A. Preliminary Evidentiary Matter

At the CAB hearing on June 29, 2004, the School District after being questioned by CAB members testified that there was a written "policy" with which it evaluated Propel. This policy purportedly evaluated charter school applications in accordance with the standards set forth in the CSL, but also additional criteria set by the School District. At the hearing, then Chairperson Phillips requested a copy of the School District's written policy to be admitted into the record.²

On July 2, 2004, the CAB received a copy of the purported policy from counsel to the School District. The written policy specifically states that it was adopted on February 25, 2004. That date, however, clearly post-dates the School District's denial of the Propel Charter School Application on November 13, 2003 (Resolution No. 822). Therefore, it is unclear from the record whether the School District in fact utilized the written policy in its review of the Propel Charter Application. And if it did, there is no evidence in the record that the School District ever notified Propel of the existence of policy and its criteria. It is possible that the School District used the same criteria set forth in the written policy prior to its being put into writing or formally adopted. The evidence, however, is not clear.

It is the CAB's opinion that the School District failed in its burden to demonstrate that it either used the written policy prior to its "formal" adoption or that it did, in fact, provide prior notice to Propel of that policy. The CAB does not believe that the written policy provides the appropriate basis or grounds for the denial of a charter school application as set forth in the CSL.

² Secretary Phillips was Chairperson of CAB at the time of the July 27, 2004 argument of this appeal. She resigned on July 31, 2004. From July 31st through September 6th Gerald Zahorchak served as Acting Secretary. On September 7, 2004 Francis Barnes became Secretary Designee and was appointed Chairperson of CAB. He subsequently designated Dr. Zahorchak to serve as Chairperson in his stead to conduct the September 29, 2004 meeting at which this matter was decided.

Additionally, since the CAB did not utilize the School District's written policy for purposes of its review, the CAB specifically rejects the introduction of the document into the record as evidence.

B. Standard of Review

Section 17-1717-A(i)(6) of the Charter School Law provides that:

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

The Supreme Court stated, in West Chester Area School District v. Collegium Charter School, 571 Pa. 503, 812 A.2d 452, 1172 (2002), that the CAB must apply a de novo standard of review when entertaining appeals from a District Board's denial of a Charter School application. The CAB defined "due consideration" in the In re: Hills Academy Charter School (Docket No. CAB 1999-12). The CAB stated in *Hills* that "since it has to agree or disagree with the findings of the Directors, it can of necessity, determine the weight of the evidence behind each finding and draws its own conclusions." *Id.* at 15. Based upon this standard, while giving due consideration to the findings of the School District, the CAB will make an independent review on each of the basis of the charter application.

C. Charter School Application Criteria

The Pennsylvania General Assembly enacted the Charter School Law to provide school children with additional opportunities to attend public schools that offer diverse and innovative educational techniques, operating independently of the traditional state public school system. See, 24 P.S. §17-1702-A. Specifically §1717(e)(2) of the CSL (24 P.S. §17-1717-A(e)(2)) sets forth the criteria under which a school district is to evaluate an application for a charter. Those criteria include, but are not limited to:

- (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 term 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 school application, the school district must demonstrate that the application and other information submitted by the charter school applicant is deficient under at least one of the criteria enumerated above. *In Re: Bear Creek Community Charter School*, (Docket No. CAB-2003-3).

D. Demonstrated, Sustainable support

Propel must show “demonstrated sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing [held before the local school board].” (24 P.S. 17-1717-A(e)(2)(i)). The Court in *Brackbill v. Ron Brown Charter School*, 777 A.2d 131 (Pa.Cmwth. 2001) adopted CAB’s interpretation of 1717-A(e)(2)(i) and constructed support to mean that “[t]he indicia of demonstrated, sustainable support is to be measured in the aggregate and not by individual categories from which that support is to be measured [and that] . . . failure to demonstrate strong support in any one category is not necessarily fatal to charter school application.” *Id.* at 138. “Sustainable support” means support sufficient to sustain and maintain the proposed charter school as an ongoing entity. *In re Ronald Brown Charter School*, (Docket No. CAB 1999-1). Furthermore, as CAB held in *Phoenix Academy Charter School*, (Docket No. CAB 1999-10), the degree of support for the proposed charter school plan is relevant, not the degree of opposition.

In this case, Propel submitted petitions of support containing the names of 497 persons, of which 237 were parents who requested enrollment information. In addition, 210 of the parents and 423 of all signers were residents of the School District. Propel also submitted letters of support from residents, foundations, businesses and elected officials. (See, C.R. Exhibit B; Exhibit D – Additional Letters, October 2, 2003). Although there is some dispute between the parties relating to the quality of the petitions or the exact number of letters of support, the record, including the supplemental information, demonstrates that substantial support has been exhibited for the charter school. There is no better evidence of that sustainable support than the information Propel submitted regarding the “pre-enrollment”. Specifically, Propel submitted the names, addresses and grades of 168 pre-enrollment applicants for the proposed charter school, which clearly evidences the level of support in the aggregate as required by the CSL.³ For the above reasons, we reject the School District’s finding to the contrary.

E. The Capability of the Charter School Applicant in Terms of Support and Planning to Provide Comprehensive Learning Experiences

1. Curriculum - Improve Pupil Learning

Both Propel and the School District agree that the charter school proposes to organize its program to address three goals: Academic Accomplishment; Community Participation and Cultivation of Personal Power. The School District’s Resolution No. 822 challenges Propel’s ability to improve pupil learning and the academic program by comparing Propel’s Curriculum with its own programs. (See, Resolution 822, pp 6-11). Propel’s stated mission is to “develop academically accomplished young men and women who are poised, curious and disciplined –upstanding individuals who will be effective members of a community.” (Propel Application – School Design Prospectus, p.1). Propel states that it “encourages excellence through an intense focus on reading, writing, mathematics, history and science....” (Id. at p. 1). Propel clearly states that it offers a

³ This information was submitted by Propel during the CAB hearing on June 29, 2004 as previously unavailable information. (CAB Hearing Transcript, p. 37.)

unique program anchored in research. The academic instruction includes the core studies that emphasize applied learning and development of the skills required to create community. Propel also sets forth the program of enrichment studies that “cultivate a sense of Personal Power and allow personal passions to thrive.” Propel’s curriculum is set forth in detail in its School Design Prospectus section of the Application (See, pp. 1-15). Likewise, Propel sets forth the “Standards for Reading, Writing and Mathematics” in its Application in substantial detail.

The CAB concurs with Propel that the existence of similar programs in the school district does not prove fatal in order to serve as a model. Shenango Valley Charter School, Docket No. CAB-1999-1; William Bradford Charter School, Docket No. CAB-1999-8. As an example, Propel purposes to use “Open Court” as its reading program. The School District however, believes that its reading program is “stronger” for various stated reasons (Resolution 822, p. 7). CAB believes that simply because the School District chooses to utilize a different program does not in and of itself make it a competent program. The CAB believes that CSL intends for charter schools to provide parents and children with another educational option, but also understands that there may very well be some similarities in programs. Having those similarities is not fatal to the proposed charter. The CSL does not require that the charter school “go over and above” the programs of the School District in order to be an appropriate alternative, as the School District suggests. Accordingly, the CAB rejects the School District’s finding.

2. Increased Learning Opportunities and Expanded Choices

Increased learning opportunities for students and providing more public school choices for parents and students are among the goals specified by the General Assembly in providing for the creation of the charter school option. (24 P.S. §17-1702-A(2)& (5). The School District commends Propels efforts to provide increased instructional time for its students, yet ultimately concludes that Propel fails to provide opportunities that are “above and beyond that which is currently being offered within the McKeesport Area

School District.” (Resolution 822, p. 11). The School District goes on to compare its learning opportunities and concludes that its programs are better.

Propel intends to place children in small classes and to give them active roles in the learning process. Propel’s stated intention is to teach by actual research and investigation” and to combine subjects in a way different from the traditional subject method. (C.R. Exhibit A – Application, pp. 1-2, 9-10). Whether Propel’s students will learn more or at a greater pace than those in McKeesport has not yet been determined, nor, need it be. However, the School District has not stated categorically or even suggested that Propel’s programs or methods do not or could not work. The CAB concludes that simply because the School District does not believe Propel’s learning opportunities do not exceed their own does not alter the fact that Propel has complied with the CSL. The CAB rejects the School District’s contention that Propel will not provide increased learning opportunities consistent with the CSL. Propel’s charter cannot be denied on this basis.

Another of the School District’s stated reasons for denial of the Propel charter is that “numerous options already exist for students in the McKeesport Area School District.” (See, Resolution 822, pp 16-17). The School District enumerates the various programs currently in existence and available to all residents of the district, including programs for gifted children, Auberle’s Alternative Program for students with behavioral problems, and cyber schools. The School District erroneously concludes that, in essence, since there are already many “school options” in the area, Propel’s charter application does not provide “anything that is different from any of the program options.” The CSL does not set a limit on the number of options or programs that may be available. The CSL merely requires that the charter school application set forth the opportunity for parents and pupils to have “expanded choices” by creation of the charter school that is the subject of the application. The CAB concludes that Propel provides parents and students with an alternative choice as required by the CSL. The School District’s contrary finding is rejected.

3. Encourage Different and Innovative Teaching Methods

The General Assembly intended that charter schools would encourage and foster the use of different and innovative teaching methods. The School District, in its review of the Propel Application, listed all the innovative practices which it purportedly offers in its own schools. (Resolution 822, p. 12-14). The School District subsequently concludes that Propel “failed to demonstrate that [its] programming meets or exceeds that currently established within the MASD [McKeesport Area School District].” The CAB disagrees that this is the standard that must be met by a charter applicant.

Propel proposes small classes, (class size 20 in grades K-4) similar to those the School District considers part of its innovative teaching method. Propel will have flexible grouping of students of diverse abilities and multi-aged grouping as well, to allow all children developmental success and to facilitate workshop and cooperative learning strategies that take advantage of diverse talents. Multi-aged grouping also allows children to remain with the same teacher for more than one year (See, Propel Application, p.3). Propel will be open for at least nine hours per day during a 190-day school year (6 hours of instruction)(Propel Application, p. 3). Propel will provide tutorial and positive behavior support to students who need it. The CAB finds that, as set forth in Propel’s Application, parents will be included in the work of the school by creating a “policy-making school council” and an activity-focused parent organization. (See, Propel Application – School Design Prospectus, p.11).

Based on all of the above, the School District’s contention that Propel’s application fails to provide different or innovative teaching practices is accordingly rejected and cannot form a basis for denial.

4. Create New Professional Opportunities for Teachers

The School District sets forth, in its Resolution 822, the four goals identified in the district strategic plan for professional development. Once again, the School District details the reasons why its “staff development” is comprehensive. (Resolution 822, p.16). Unfortunately, it merely concludes that Propel’s application is “lacking in detail and

direction regarding [its] staff development.” Even a cursory review of Propel’s Application clearly demonstrates that Propel has adequately set forth its professional development plan as required by the CSL.

Propel teachers will participate in training and workshops where specific instructional practices are introduced and refined and where student work is reviewed; they will receive individual coaching in classrooms; observe and collaborate with their peers during planning times. In addition, Propel will conduct a basic orientation to all teachers to provide an overview of the school, learning experiences and instructional strategies. (Propel Application – School Design Prospectus, pp. 12-13). Furthermore, as part of its professional development system, it will appoint two lead teachers, plus an additional full-time teacher for providing professional development activity. (Propel Application, p. 18). Teachers will also participate in extended institutes over the summer. (Propel Application, p.18).

Thus, CAB concludes that Propel’s Application has substantially set forth the creation of new professional opportunities in compliance with the CSL.

5. Accountability For Meeting Academic Standards

Propel will use teacher assessment of student work, reading inventories, student portfolios, as well as standardized testing and state testing for its comprehensive assessment plan. Propel charter school will review results at least weekly to determine whether students are making adequate progress toward learning goals. Propel states that its goal is to “identify problems quickly and then make changes immediately- not at the end of the grading period or school year.” (Propel Application – School Design Prospectus, p. 14). At enrollment, Propel will also conduct a full assessment of each child’s present level of performance, which is part of the orientation process.

According to Propel it will utilize the standardized testing (SAT-9) or a comparable standardized test each year. It will also supplement this with the New Standards Reference Exams at key grade levels. While it appears that the School District is correct in that Propel will use one less report card for students, CAB finds that in all other

respects Propel will use appropriate methods of meeting measurable academic standards as required by the CSL.

6. Governance Structure

The Propel Application set forth the governance structure of the proposed charter school as required by §17-1719-A(4) of the CSL. The Board of Trustees will consist of 7-10 members serving staggered terms of four years. The Board of Trustees is responsible for overseeing the operation of the school and tending to its organizational health. It will budget and authorize the expenditure of funds and establish effective policies for the safeguarding of funds; select and fix the compensation of the Chief Executive Officer; and authorize the hiring of additional staff. Propel will establish a School Council, which will include parents of children enrolled at the school, teachers and other staff and local community members. (Propel Application, pp 2-6).

Propel submitted additional information regarding the governance structure of the charter school during the School District's public hearing on September 3, 2003 and in subsequent correspondence to the School District. The Articles of Incorporation were submitted to the District on October 2, 2003. (C.R. Exhibit D – Additional Letters).

The School District has questioned whether Propel is an independent entity or a regional charter school. It has raised an inference that Propel is actually converting this application into a "regional concept of a charter school in Allegheny County." (CAB Hearing Transcript, p. 16).

This issue has been clearly resolved by CAB and the Pennsylvania Courts. The right of an applicant to choose whether to apply for a single district charter or a regional charter has been clearly established. CAB held in West Chester Area School District v. Collegium Charter School, Docket No. 1999-9 that "nothing in the Charter Law leads to the conclusion that simply because applicants intend to draw students from more than one school district they are obligated to seek a regional charter." The Commonwealth Court, affirming the CAB decision, stated that the Charter School Law "does not set forth any particular set of circumstances that would require a charter school applicant to apply

as a multi-district regional charter school rather than a single district charter school. Instead the Charter School Law leaves that choice completely up to the applicant regardless of the anticipated geographic makeup of the student body.” West Chester Area School District v. Collegium Charter School, 760 A.2d 452, 463 (Pa.Cmwlt. 2000). The record is devoid of any evidence of a set plan for any regional charter school by Propel.

Furthermore, it is the CAB’s conclusion, based upon the prevailing case law from the Pennsylvania Supreme Court and Commonwealth Court (which have approved management agreements) that Propel is not prohibited from entering into contractual and governance relationships with for-profit entities in the establishment and operation of a charter school so long as the school itself is not-for-profit, the trustees have real and substantial authority and responsibility for the educational decisions, and the teachers are employees of the charter school. (see West Chester Area School District v. Collegium Charter School, 812 A.2d 1172 (Pa. 2002). The only restriction set forth in the CSL is that “[n]o member of a local board of school directors of a school entity shall serve on the board of trustees of a charter school that is located in the member’s district.” (24 P.S. §17-1716-A(b)).

The record is clear that Propel Charter School – McKeesport is a nonprofit corporation, which is permitted to be an applicant for a charter. The CAB concurs with Propel that there is “no prohibition under the CSL for cross-membership of the Boards of Trustees for said schools or a prohibition against one group of people applying for more than one school.” (See, Propel Brief, p. 13). The CAB concludes that Propel has provided the necessary information regarding the governance structure for the charter school as required by §1719-A(4) of the CSL (24 P.S. §17-1719-A(4)) and that the School District erred in relying on this ground to deny the application.

F. Budget

The School District also considers the budget submitted as part of the Propel application “troubling”. The School District among other issues, states that the budget makes no provision for basic services such as computer-assisted instruction, counseling services, speech and language support, audio-visual services, library services, vision support, as well as tutorial and other remedial services. These budgetary “omissions” caused the School District to have serious doubts as to the ability of Propel to operate a functional educational facility. Propel, however, argues that it submitted a financial plan and proposed budget for the charter school’s operation, which it believes is fiscally sound and provides a budget for those services.

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)). As part of that evaluation, it is reasonable to expect that a charter applicant must submit a financial plan that reasonably demonstrates such capacity. In addition, section 1719-A(9) of the CSL requires that a charter school submit a financial plan as part of its application. (24 P.S. §17-1719-A(9)). CAB finds that Propel satisfied the CSL by providing a detailed financial/budgetary plan in its application, as well as in the supplemental information provided to the School District.

Propel believes and so states that the budget includes projections that are “fiscally sound and reflect good business judgment, and reflect the best financial practices of currently operating charter schools. (See, Propel Brief, p. 14). Propel submitted letters from foundations and businesses demonstrating financial support. (C.R. Exhibit B – Supplemental materials; School District Public Hearing Trans., p. 13). Propel has received fundraising commitments in the total amount of \$1,000,000 dollars. (C.R. Exhibit A – Application p. 23). The CAB has consistently held that where a charter school application presents a budget that contains an itemized projection of income and expenses for the first five years of operation and the district does not specify how the

financial plan is insufficient, the financial plan meets the law's requirements. *Eloise and Edith Academy Charter School*, (Docket No. CAB 1999-13). The CAB has approved financial plans which provide a sufficient basis from which to conclude that the charter school has considered fundamental budgeting issues and determined that it will have the necessary funds to operate. *Lincoln-Edison Charter School*, (Docket No. 2000-1).

The CAB does not concur with the School District's "inescapable" conclusion that the prorated salaries of several Propel administrative and supervisory personnel is evidence that Propel intends to operate a regional charter school rather than an independent entity in McKeesport. There is simply no evidence in the record other than self-serving conclusions of the School District to support such an allegation. The CAB believes that the financial plan and budget submitted by Propel satisfies the requirements of the CSL. Accordingly, the CAB finds that the School District erroneously denied the Propel charter on that basis.

G. Facility

The parties in this matter do not dispute that Propel has fulfilled the minimum requirements of the CSL which requires the applicant to identify a 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)). The School District however, argues that it is compelled to "look beyond" the basic provisions of the CSL and conduct a more in-depth evaluation of the proposed facility. The address of the facility is 332 5th Avenue, McKeesport, Pennsylvania. (Propel Application, p. 14).

Propel provided ownership information, as well as pictures of the physical facility. Moreover, in supplemental information provided to the School District at the public hearing on September 3, 2003 and in a letter from the architect, Propel described the suitability and viability of the facility of the charter school.

The School District nonetheless states that it has serious reservations regarding the proposed site because of its proximity to "several bars, as well as being directly

across the street from the Allegheny County Probation Office.” While the CAB is also concerned with the safety and welfare of the children of McKeesport, there is sufficient evidence in the record that the proposed facility is suitable and appropriate. According to the record, there is a day-care on the first floor of the same building as Propel’s school site. Also, Propel argues that the School District itself has an alternative education facility on the same block. Finally, Propel testified at the CAB hearing that a community college is located across the street from the proposed facility.

The School District suggests that the CAB look, as it did, to the “specific nature” of the location. It is well established that 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, site development plan or list of alternative sites. *In Re: Environmental Charter School*, (Docket No. CAB 1999-14). In fact, the CAB has previously approved a charter where all that was available was a street address and drawing of the proposed facility and the applicant needed to secure a zoning variance in order to operate a school in the proposed facility. *In re: Legacy Charter School*, (Docket No. CAB 2000-14).

In this case, Propel has done much more than that. While the CAB cannot alter the nature or character of the neighborhood in which the school is to be located, it cannot deny a charter on that basis. The CAB finds that Propel has sufficiently described the physical location and condition of the proposed facility as required by the CSL and rejects the School District’s contrary finding.

Accordingly, based upon these conclusions, the following Order is entered:

ORDER

AND NOW, this 14th day of October, 2004, based upon the foregoing and the vote of this Board⁴, the appeal of the Propel Charter School - McKeesport is SUSTAINED and the November 13, 2003 Resolution #822 of the McKeesport Area School District denying the Propel charter is REVERSED.

The McKeesport Area School District is hereby ORDERED to grant the application of Propel Charter School – McKeesport for a charter by executing such charter pursuant to §1720 of the Charter School Law, 24 P.S. §17-1720-A.

For the State Charter School Appeal Board,

_____/s/_____
Gerald L. Zahorchak
Chairperson

Date Mailed: October 15, 2004

⁴ At the Board's September 29, 2004 meeting, the appeal was granted by a vote of 4-0, with members Zahorchak (designee of the Secretary and Chairperson), Bunn, Giorno and Shipula voting to grant the appeal and members Melnick, Reeves and Salinger-Lerner not participating in the vote.