

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

In Re: Vitalistic Therapeutic Charter :
School Appeal from Inaction of the : **Docket No. CAB 2005-7**
Bethlehem Area School District on its :
Renewal Application :

DECISION AND ORDER

The State Charter School Appeal Board (Board) met on July 26, 2005 and accepted the record in this appeal. The Vitalistic Therapeutic Charter School (Vitalistic) is a regional charter school, serving students from the Allentown and Bethlehem Area School Districts. Vitalistic applied to both districts for renewal of its charter and its request was granted and a renewal charter was issued by Allentown. Bethlehem took no action and, consistent with 24 P.S. §17-1717-A(g) Vitalistic filed a Petition to Appeal with the State Charter School Appeal Board (CAB). On June 29, 2005, the Bethlehem Area School District filed a letter with CAB which stated, in pertinent part, “the District will not be responding to...Vitalistic’s Petition to Appeal.”

These proceedings are governed by Pennsylvania’s General Rules of Administrative Practice and Procedure, which are found in Title 1 of the Pennsylvania Code. Section 35.35 of those rules provides the School District a period of 20 days to file an answer to the appeal. If the school district fails to answer it “may be deemed in default, and relevant basic facts stated in the ... petition [to appeal] may be deemed admitted.” 22 Pa. Code § 35.35. The certified record in this appeal, as accepted by CAB at its meeting, includes the following documents: (1) the Petition for Appeal filed by Vitalistic; (2) the approved charter from the Allentown School District (appended to the


Petition); (3) the Charter School Renewal Request which had been filed with Bethlehem (appended to the Petition; and (4) the school district's letter of June 29, 2005 to CAB.

Although Bethlehem's letter was filed within the prescribed time permitted for answers, the letter did not constitute an answer either admitting or denying the averments of Vitalistic's Petition to Appeal. Thus, the issue before CAB was whether Bethlehem should be deemed in default because it did not file an answer and because Bethlehem clearly expressed the intention not to participate in this matter before CAB. Were Bethlehem to be deemed in default, then the facts averred in the appeal would be deemed admitted and, as a result the appeal would of necessity be granted and the charter renewed. A motion to deem Bethlehem in default was made and seconded at the meeting and the motion was adopted by vote of the CAB.¹ Thus, CAB enters the following:

ORDER

AND NOW, this 13th day of September, 2005, based upon the foregoing, the Bethlehem Area School District is deemed to be in default in this matter and the appeal of the Vitalistic Therapeutic Charter School is granted. A renewal charter will be granted within 10 days of the date of this Order, if the Board of School Directors fails to execute a renewal charter.

For the State Charter School Appeal Board



Gerald L. Zahorchak
Chairperson

¹ With CAB members Bunn, Reeves, Shipula and Zahorchak voting in favor of the motion, it was adopted unanimously by a vote of 4-0.