

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

Montessori Regional Charter School :
: **Docket No. CAB 2009-05-A**
Appeal of the Millcreek Township :
School District's Denial of :
Montessori Regional Charter :
School's Charter Renewal :
Application :

OPINION

Background

This matter comes before the Pennsylvania State Charter School Appeal Board ("CAB") on appeal by the Montessori Regional Charter School ("Montessori") from Millcreek Township School District's ("Millcreek") denial of Montessori's request for renewal of its charter.¹

Findings of Fact

1. Montessori was granted a charter to operate a regional charter school in 2004, which charter expired on June 30, 2009.
2. In September of 2008, Montessori notified Millcreek and the Erie City School District ("Erie") that Montessori intended to seek renewal of its charter.

¹ Montessori's contemporaneous renewal application to its other chartering school district, the Erie City School District, had been approved.

3. Montessori included in its renewal application an amendment that would allow Montessori to add a second building to accommodate a substantial increase in Montessori's enrollment ("amendment").

4. On March 25, 2009, Millcreek and Erie held a public hearing on the charter renewal application submitted by Montessori.

5. On June 29, 2009, Erie voted to renew Montessori's charter, but voted to defer action on Montessori's amendment.

6. On June 29, 2009, Millcreek voted to deny Montessori's amendment.

7. Also on June 29, 2009, Millcreek voted 4-3 to renew Montessori's charter, but the Board President and Secretary signed a document purporting to deny the renewal of Montessori's charter.

8. On July 24, 2009, CAB received a Petition to Appeal the Nonrenewal of Montessori Regional Charter School's Charter. Specifically, Montessori appealed Erie's decision to defer action on the amendment, Millcreek's denial of the amendment and Millcreek's denial of the renewal application.

9. On September 8, 2009, CAB received, *inter alia*, Motions to Dismiss the Petition to Appeal on behalf of Millcreek and Erie. The Motions to Dismiss the Petition to Appeal related to the amendment of Montessori's charter.

10. Montessori responded to the Motions to Dismiss and Millcreek, Erie and Montessori filed briefs in support of their respective positions regarding the Motions to Dismiss.

11. On October 27, 2009, the Districts and Montessori presented arguments to CAB in support of their positions regarding the Motions to Dismiss.

12. By Opinion and Order dated November 24, 2009, CAB granted both Millcreek and Erie's Motions to Dismiss the Petition to Appeal.

13. On November 23, 2009, Millcreek reconsidered its motion to not renew Montessori's charter and voted to approve the renewal of Montessori's charter.²

14. On December 15, 2009, CAB considered the pending appeal that remained, heard argument from Montessori's counsel and then voted to dismiss Montessori's appeal of Millcreek's original decision to deny the renewal application as moot.

Discussion

On November 24, 2009, CAB issued an Opinion and Order granting Millcreek and Erie's Motions to Dismiss related to the amendment of Montessori's charter. Also by letter dated November 24, 2009, counsel to CAB was notified that Millcreek had reconsidered its previous motion to not renew Montessori's charter and had voted to approve the renewal application. Thus, Millcreek asked that the appeal taken by Montessori be dismissed as moot. Although given the opportunity to do so, Montessori declined to withdraw its appeal as it had not yet received a signed, written charter from Millcreek and Erie. While CAB recognizes Montessori's concerns related to the execution of a charter, this issue is beyond CAB's jurisdiction.³

² Millcreek approved Montessori's renewal application without the amendment.

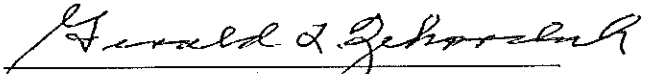
³ CAB has stated previously that its jurisdiction is "specifically limited to four areas: (1) appeals from school district denials of applications to form a charter school (24 P.S. §17-1717-A(i)(1), (2)); appeals because a school district has failed to timely act upon a charter application (24 P.S. §17-1717-A(g)); (3) appeals from school district decisions to revoke a charter (24 P.S. §17-1717-A(d)); and (4) appeals from school district decisions to nonrenew a charter (24 P.S. §17-1717-A(d))." *Re: Bucks County Montessori Charter School*, CAB 2003-4, pg. 2. A dispute over the execution of a charter does not fall within any of these areas.

There is no question that Millcreek has – by a majority vote – approved the renewal of Montessori’s charter. Thus, Montessori’s appeal is now moot, will be dismissed as such and the following Order is entered:

ORDER

AND NOW, this 22 of January, 2010 based upon the foregoing and the vote of this Board⁴, CAB, because of the approval of the renewal of Montessori Regional Charter School’s charter by the Millcreek Township School District, dismisses the remainder of Montessori’s appeal as moot.

For the State Charter School Appeal Board



Gerald L. Zahorchak, D.Ed.
Chairman

⁴ Millcreek’s Motion to Dismiss for mootness was granted by a vote of 5-0-1 with members Akers, Green, Reeves, Shipula, and Zahorchak voting to grant the Motion and member Barker abstaining from the vote.