

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

<b>Career Connections Charter High School,</b>	:	
<b>Petitioner</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. CAB 2012-12</b>
	:	<b>Application for Stay</b>
<b>School District of Pittsburgh,</b>	:	
<b>Respondent</b>	:	

**OPINION**

On October 7, 2013 this Board issued an Opinion and Order denying the Appeal of Career Connections Charter High School (“CCCHS”) from the nonrenewal decision of the School District of Pittsburgh (“Pittsburgh”). The Board made its Order effective as of January 25, 2014 in order to allow students at CCCHS to complete the fall term at the school. On October 11, 2013 CCCHS filed an application for stay, and Pittsburgh responded opposing the granting of a stay.

CCCHS relied upon Rule 1781 of the Pennsylvania Rules of Appellate Procedure as the basis for the Board’s jurisdiction. That Rule states, “[a]pplication for a stay or supersedeas of an order or other determination of any government unit pending review in an appellate court on petition for review shall ordinarily be made in the first instance to the government unit.”

Pa.R.A.P. 1781. In contrast, Pittsburgh argued that the Board lacks jurisdiction by relying upon the Charter School Law (“CSL”) provision which states that in nonrenewal and revocation cases “the charter shall remain in effect until final disposition by the appeal board.” 24 P.S. §17-1729-A (f). However, section 1729-A of the CSL is not about stays, but rather about the causes for nonrenewal and termination and the process for such action. It defines when a nonrenewal or revocation decision becomes effective to extinguish a charter, absent a court appeal. The

granting of a stay is exclusively governed by Rule 1781, and that Rule provides this Board with jurisdiction to entertain the instant application.

Having established jurisdiction, the next determination to be made is whether the four criteria for granting a stay have been met. These criteria are: (1) whether irreparable harm will be suffered by the applicant if the stay is not granted; (2) whether granting a stay will harm the other party – Pittsburgh; (3) whether granting a stay will harm the public interest; and (4) whether the applicant presents a substantial case on the merits. Pa. Pub. Util. Comm'n v. Process Gas Consumers Grp., 502 Pa. 545, 467 A.2d 805 (Pa. 1983).

In its application CCCHS asserts that it satisfies each of these criteria, which it must do in order to prevail. First, CCCHS asserts that students and staff will be irreparably harmed if the school closes in the middle of its school year, and that the students' educational programming will be significantly disrupted. Next, because Pittsburgh will incur the expense of educating resident students whether they continue at CCCHS or move to the school district, CCCHS argues that Pittsburgh will not be harmed. Third, CCCHS contends that a stay will not harm the public interest because of the alleged benefits offered by this school of choice. Finally, CCCHS avers that its appeal will present a substantial case on the merits. See, Witmer v. Dep't of Transp., Bureau of Driver Licensing, 889 A.2d 638 (Pa. Commw. Ct. 2005).

Pittsburgh's response does not address these four criteria, nor does it dispute any of the supportive averments in CCCHS' application. Rather, Pittsburgh, as discussed above, asserts procedural bars to the application,<sup>1</sup> which procedural bars do not, in the Board's view, exist. As a result, CAB will accept the well-pleaded assertions of CCCHS' application, as being true.

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<sup>1</sup> Additional procedural arguments made by Pittsburgh are that the meeting agenda was final and that the General Rules of Administrative Practice and Procedure (GRAPP) don't authorize the filing of stay requests with the Board. Regarding the agenda, it is the Board's agenda, and the Board controls the content and finality thereof. In this

Thus, because the Board rejects the procedural arguments made by Pittsburgh, and because Pittsburgh did not dispute the factual assertions made by CCCHS substantiating that it met the criteria of granting a stay, we make the following:

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case, the Board opted to add this matter to its agenda. Regarding GRAPP, it does not establish the jurisdiction of this Board, that jurisdiction is defined by the CSL and, in this case, by Rule 1781.

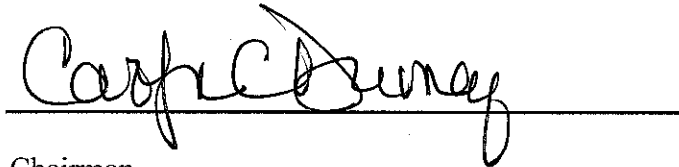
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ORDER

AND NOW, this 18<sup>th</sup> day of OCTOBER, 2013, based upon the foregoing and the vote of this Board<sup>2</sup>, the application for stay of the Career Connections Charter High School is **GRANTED**.

For the State Charter School Appeal Board



Chairman

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*Date of mailing:* 10/24/13

<sup>2</sup> At the Board's meeting of October 15, 2013 the Board voted 6-0 to grant the application with members Barker, Dumaresq, Lawrence, Magnotto, Munger and Yanyanin voting.