

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

CHOICES OF WILLIAM PENN :
CHARTER SCHOOL :
 : **CAB Docket No. 2014-07**
v. :
 :
WILLIAM PENN SCHOOL DISTRICT :

DECISION ON MOTION TO QUASH

Choices of William Penn Charter School initially applied to the William Penn School District (“District”) for a charter in November 2012. At the February 2013 board meeting, the board of school directors voted unanimously to deny the charter application. In November 2013, Choices of William Penn filed a second charter school application. After conducting hearings on the second application, the board of school directors voted once again to deny the charter application in February 2014. On August 28, 2014, Choices of William Penn submitted a revised application. The District scheduled an initial hearing for October 2, 2014. At the conclusion of that hearing, the District selected a second hearing date on November 19, 2014. On October 27, 2014, the local board of school directors held a meeting and did not consider Choices of William Penn’s revised application, even though it was the first board meeting to occur at least forty-five days after receipt of the revised and resubmitted application. Choices of William Penn then filed an appeal with the State Charter School Appeal Board (“CAB”) pursuant to section 1717-A(g) of the Charter School Law (“CSL”) based upon the failure of the local board of school directors to grant or deny its resubmitted and revised charter application within the time periods specified in section 1717-A(f) of the CSL.

The Charter School Law permits a charter applicant to file a direct appeal with CAB if the local board of school directors fails to grant or deny the application for a charter school within the time period stated in subsections (d), (e), or (f) of section 1717-A of the Charter School Law. 24 P.S. § 17-1717-A(g). The subsection relevant to this appeal is subsection (f) which addresses resubmitted charter applications. Section 1717-A(f) of the Charter School Law allows a charter school applicant to revise and resubmit a denied application to the local board of school directors. 24 P.S. § 17-1717-A(f). Subsection (f) states, in relevant part:

At the option of the charter school applicant, a denied application may be revised and resubmitted to the local board of school directors.... The board shall consider the revised and resubmitted application at the first board meeting occurring at least forty-five (45) days after receipt of the revised application by the board.

24 P.S. § 17-1717-A(f).

The District argues that the time limit contained in section 1717-A(f) of the Charter School Law is inapplicable because it treated the third application submitted by Choices of William Penn as a new application. The District argues that too much time had elapsed between the denial of the second charter application and the new submission. The District admits that there is no statutory time limit on submitting a revised charter application in the Charter School Law. However, the District argues that a charter application should be resubmitted within sixty (60) days because a resubmission is an alternative to taking an appeal. The District argues that the sixty days would be consistent with the sixty-day deadline to gain the requisite number of signatures to appeal a denied application. *See* 24 P.S. § 17-1717-A(i)(2). Therefore, during that sixty-day period a charter applicant could obtain the requisite number of signatures to appeal or revise and resubmit its application. The District further argues that without a time limit for an application to be revised and resubmitted there is potential for abuse. Notably, while the District

suggests several ways that the absence of a timeline would result in abuses, it does not allege that any such abuses occurred in this case.

The Rules of Statutory Construction provide that “[w]hen the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” 1 Pa.C.S. § 1921(b). In order to ascertain the plain meaning, “[w]ords and phrases shall be construed according to rules of grammar and according to their common and approved usage.” 1 Pa.C.S. § 1903(a). The plain language of the statute does not contain a deadline for a charter applicant to submit a revised application. Additionally, there is nothing in the law to support the District’s contention that there should be a sixty-day deadline for filing a resubmitted application. As such, CAB disagrees with the District and finds that the language of the statute is free and clear of ambiguity about whether there is a time limit in which to submit a revised and resubmitted charter application.

Alternatively, the District argues that Choices of William Penn did not object to the selection of a second hearing date that fell beyond the forty-five day time limit contained in section 1717-A(f) of the Charter School Law; and therefore, the doctrine of equitable estoppel prohibits Choices of William Penn from then objecting to a hearing scheduled after the statutory deadline. The date was selected by the District; but no objection was raised by Choices of William Penn as to that selected time.

Under Pennsylvania law, the doctrine of equitable estoppel is applied to “prevent one from doing an act differently than the manner in which another was induced by word or deed to expect.” *Novelty Knitting Mills, Inc. v. Siskind*, 457 A.2d 502, 503 (Pa. 1983). To constitute inducement, a person must commit an act or forbearance that causes a change in condition resulting in disadvantage to the one induced. *Id.* The District argues that Choices of William

Penn “acknowledged” the second hearing date which was past the appeal deadline set forth in the statute. Additionally, the District argues that it reasonably construed Choices of William Penn’s silence as consent to the schedule proposed by the District and to a delay of the deadline for making a decision.

Choices of William Penn did not induce the District to violate the statutory deadline to act upon a resubmitted application. In fact, the District admits that extending the deadline was not specifically discussed. Instead, the District states that it selected a date past the forty-five day deadline and that Choices of William Penn did not object at that time. Choices of William Penn was under no obligation to notify the District of its statutory deadline, and there is no indication that the charter applicant knew of the statutory deadline and intentionally deceived the District by not objecting to the date. There was simply no explicit or implicit waiver of the statutory deadline on the part of Choices of William Penn. A charter applicant is under no obligation to make the District aware of its own statutory deadlines or monitor the District’s calendar in order to make sure that a public hearing was held in a timely manner. As such, CAB disagrees with the District that the doctrine of equitable estoppel prohibits the filing of this direct appeal.

Based upon the above and in consideration of the pleadings filed herein and the argument of counsel presented at the CAB meeting on February 18, 2015, CAB voted to deny the Motion to Dismiss and orders the following:

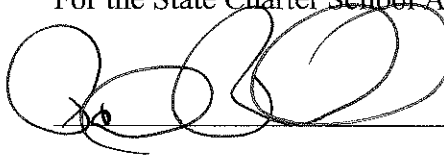
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ORDER

AND NOW, this 17th day of March, 2014⁵, based upon the foregoing and the vote of this Board,¹ IT IS HEREBY ORDERED that the Motion to Dismiss filed by the William Penn School District is DENIED; and the Choices of William Penn Charter School's appeal will move forward.

For the State Charter School Appeal Board,



Chair

Date mailed: 2/18/15

¹ At the Board's meeting on February 18, 2015 the Motion to Dismiss was denied by a vote of 7 to 0 with members Bracey, Cook, Miller, Munger, Peri, Rivera, and Yanyanin voting.