

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

Vision Academy Charter School of Excellence,	:	
Appellant,	:	
	:	CAB Docket No. 2020-02
v.	:	
	:	
Southeast Delco School District,	:	
Appellee	:	

OPINION

This matter comes before the Pennsylvania State Charter School Appeal Board (“CAB” or “Board”) on the appeal by Vision Academy Charter School of Excellence (“Vision” or “Charter School”) in accordance with the Charter School Law, Act of June 19, 1997, P.L. 225, No. 22, *as amended*, 24 P.S. § 17-1701-A *et seq.* (“CSL”). Vision appeals from the Decision issued May 28, 2020, (“Decision”) by the Southeast Delco School District Board of School Directors (“SDSD” or “the District”) which rejected and denied Vision’s Revised Application (“Revised Application”). For the reasons stated below the decision of the school district is affirmed and the appeal is dismissed.

BACKGROUND and PROCEDURAL HISTORY

On or about November 14, 2019, Vision submitted an application (“Original Application”) for a charter to the District. The Board of School Directors scheduled and held a public hearing on the application on December 18, 2019. That meeting occurred as scheduled and was transcribed. Pursuant to Section 1717-A(e)(2)(i) of the CSL, the School Board received public comments regarding the Original Application during the hearing. Five people spoke during the public comment period. On February 27, 2020, the District voted to deny the Original Application. On March 9, 2020, the District issued a written opinion to support the denial.

On April 6, 2020, Vision filed a Revised Application for a charter with the District. No further public hearing was held on the *Revised Application*. On May 28, 2020, the District voted to deny the Revised Application. The District produced a *Recommended Opinion Supporting Denial of Resubmitted Application of Vision Academy Charter School of Excellence* dated May 28, 2020; however, that document was not made part of the record until August 6, 2020. This filing was secondary to Vision's *Emergency Petition to Certify Petition for Appeal* filed with the local Court of Common Pleas on July 23, 2020. To that end, the Court held a hearing on August 27, 2020, wherein the District did not oppose the petition. The Court issued an order on the same day and certified the petition and authorized the appeal.

Vision filed a *Petition for Appeal* to the CAB on September 25, 2020. The District Board filed an *Answer* to the Petition on October 23, 2020. By letter dated November 2, 2020, the CAB delegated the matter to a hearing officer to address any procedural issues raised in the case in order to prepare the case for argument before the CAB, as well as to establish a schedule for the filing of briefs and proposed findings of fact, and to then certify the record to the CAB. Secondary to a telephone conference with counsel, the hearing officer issued a December 14, 2020 *Order* establishing a schedule for supplementing the record and for briefing.

The parties did not file motions to supplement the record. Vision filed its brief on the merits on January 21, 2021; the District filed its brief on the merits on February 23, 2021; and, Vision filed its reply brief on March 8, 2021. The Department of State hearing officer certified the record to the CAB on April 1, 2021. Argument occurred before the CAB on September 13, 2021 and CAB voted upon the matter at its October 17, 2021 meeting. The record is closed, and the matter is now ready for disposition.

FINDINGS OF FACT

1. On November 14, 2019, Vision filed an application for a charter school with the District (“Original Application”) to open and operate a school pursuant to the Charter School Law (“CSL”). (See, “2019 Original Application and Appendices” identified in the District’s Certification of Record).

2. On December 18, 2019, from 7:04 p.m. to 8:22 p.m., the District held a public hearing on the Original Application. (See, “Vision Academy Transcript 12.18.19” identified in the District’s Certification of Record).

3. The Board heard testimony from Vision and the Administration of the District. (*Id.*)

4. Pursuant to §1717-A(e)(2)(i) of the CSL, the School Board took public comments regarding the Application during the hearing. (N.T. 42).¹

5. Five people spoke during the public comment period. (N.T. 42-45).

6. On February 27, 2020, the District voted to deny the *Original Application*. (*Opinion Supporting Denial* dated March 6, 2020).

7. On March 6, 2020, the District issued an *Opinion Supporting Denial*. (*Id.*).

8. Vision incorporated as a domestic nonprofit nonstock corporation on March 12, 2020. (*PA Corporation Search for Vision Academy Charter School of Excellence* dated May 15, 2020).

9. Thereafter, on April 6, 2020, Vision filed with the District its *Revised Application* for a charter (“Revised Application”) (collectively, the *Original Application* and *Revised Application* are the “Application”). (See, “2020 Re-Application and Appendices” identified in the District’s Certification of Record).

¹ N.T. refers to Notes of Testimony, i.e., the transcript of the public hearing on December 18, 2019.

10. The *Revised Application* added more curriculum but was otherwise the same as the *Original Application*. (*Id.*).

11. The Charter School intends to serve grades Kindergarten through 6. (*See Application*).

12. Vision described its mission and goals as follows:

The mission of Vision Academy Charter School of Excellence of Excellence (VACSE) is to prepare students in kindergarten through eighth grade to become responsible and articulate students and citizens by using a comprehensive curriculum designed to foster academic success and current technology to build self-reliance.

The core philosophy of the Vision Academy Charter School of Excellence is that all students can achieve success through the fidelity of implementation of the five research-based pillars presented in this application:

- 1) Precise scope and sequence supported through quality curriculum and extended day in a small school environment to ensure mastery of content.
- 2) Calculated delivery model that is refined and improved through the use of data.
- 3) Frequent demonstration of student achievement beyond the test through project based learning and on-line learning opportunities that will lead each student toward autonomous education advocacy.
- 4) Consistent use of school-wide and individual positive behavior support systems.
- 5) Authentic parent engagement that breaks down walls of education disenfranchisement and builds strong home and school relationships.

Through the use of Act 22, the founding group believes that it will be able to create an innovative school that will serve as a valuable asset to the district's portfolio of public schools and help the district fulfill its mission that states "The mission of the Southeast Delco School District is to nurture, educate, and challenge students to become lifelong learners, possessing knowledge, compassion, and a desire to serve the global community."

(*Id.*)

13. Among the other appendices, in connection with the Application, Vision included appendices which included the school's proposed SmartLab curriculum, a facility letter of intent for the lease of property at the proposed school location, an on-line pre-enrollment list from families in the Southeast Delco school district, and a proposed startup and five (5) year operating

budget. (See, *2020 Re-Application and Appendices*, Appendix B, D, E, and J identified in the District's Certification of Record).

14. No public hearing was held secondary to the *Revised Application* and on May 28, 2020, the District voted to deny the *Revised Application*. (Record).

15. In connection with its vote to deny the *Revised Application*, the District prepared its *Recommended Opinion Supporting Denial of Resubmitted Application*. (See, "SED Opinion on Reapplication 5.28.20" identified in the District's Certification of Record).

16. In denying the Application for a charter, the District issued written rulings setting forth its reasoning for denial. (See, "SED Opinion 3.6.20 - Exhibit A," "SED Opinion 3.6.20," and "SED Opinion on Reapplication 5.28.20," identified in the District's Certification of Record.)

17. The justifications for its denial of the Application were:

a. an inability to identify the applicant which the District contends was unclear in the hearings and in the Application, including the District's concern over the timing of the filing of the *Articles of Incorporation* for the Applicant;

b. a claim that the Application and model are the "exact same or extremely similar" to an existing charter school in a different school district, specifically, Vision William Penn, including the District's contention that it did not see any differences between the other existing school and the Applicant's Original and Resubmitted Applications;

c. the District's inability to ascertain the role of Charter Choices, an independent management company, in connection with the Application;

d. the District’s conclusion that the financial numbers in the Application “may be unrealistic,” specifically with respect to what the District identifies as the “main item of innovation” of lower staff to student ratio;

e. the District’s concern that the Applicant will negatively impact the existing desegregation order that the District is subject to;

f. insufficient demonstrated familiarity with the District;

g. the District’s concerns regarding the proposed location and building of the charter school;

h. a belief that the projected enrollment numbers were not sufficiently supported, and concerns over some of the pre-enrollment forms being from students not currently from the District;

i. issues concerning the curriculum and alignment with Pennsylvania standards; and,

j. insufficient community support based, in large part, on the District’s conclusion that much of the demonstrated support came from students already enrolled in Vison William Penn charter school. (*See*, “SED Opinion on Reapplication 5.28.20” identified in the District’s Certification of Record).

18. Pursuant to the Charter School Law, “in order for a charter school applicant to be eligible to appeal the denial of a charter by the local board of directors, the applicant must obtain the signatures of at least two *per centum* (2%) of the residents of the school district or of one thousand (1,000) residents, whichever is less, who are over eighteen (18) years of age.” 24 P.S. §17-1717-A(h)(2).

19. On July 23, 2020, Vision Academy filed an *Emergency Petition to Certify Petition for Appeal* (the “Petition”) with the Court of Common Pleas of Delaware County, Pennsylvania. (*Appellant, Vision Academy Charter School of Excellence’s Brief in Support of Its Appeal to the Denial of Its Charter Application*, attaching the *Petition* as Exhibit “A”).

20. The Petition included signatures that exceeded the Charter School Law’s required number of residents in the school district over the age of eighteen. (*Id.*).

21. Specifically, Vision Academy obtained the signatures of 1,425 qualified residents. (*Id.*).

22. On August 27, 2020, the Delaware County Court of Common Pleas held a hearing on the *Petition*, which was unopposed by the District. (*Id.* at Exhibit B).

23. On August 27, 2020, the Court issued an *Order* certifying the *Petition* and authorizing the instant appeal. (*Id.*).

24. This timely administrative appeal followed. (*Appeal from Denial of Charter Application* dated September 25, 2020).

25. The parties have received notice and the opportunity to respond to all documents and proceedings since the filing of the administrative appeal.

CONCLUSIONS OF LAW

1. The CAB has jurisdiction over the instant appeal. Findings of Fact 1, 9, 15, 16, 23, 24, and 25; 24 P.S. §§17-1717-A(f), 17-1721-A, and 17-1746-A(a)(1).

2. The CAB has the authority under the CSL to agree or disagree with the findings of the District Board based upon the CAB's review of the certified record. 24 P.S. § 17-1717-A(i)(6).

3. Vision's *Revised Application* fails to demonstrate that the proposed charter school has adequately considered the following information requested in §1719-A to the extent required by 24 P.S. §17-1717-A(e)(2)(iii) to wit:

a. Vision's *Revised Application* failed to adequately identify the applicant.

b. Vision's *Revised Application* failed to adequately identify community group involvement.

c. Vision's *Revised Application* failed to adequately describe extracurriculars.

d. Vision's *Revised Application* failed to adequately list criminality checks.

Finding of Fact 17.

4. Vision's *Revised Application* fails to demonstrate that Vision has the capability, in terms of support and planning, to provide a comprehensive learning experience to students as required by 24 P.S. § 17-1717-A(e)(2)(ii) to wit:

a. Vision's financial plan was unpersuasive.

b. Vision's proposed facility was fundamentally flawed.

c. Vision had curricular issues in a lack of new program and/or fulfillment of state requirements.

d. Vision simply did not address a plan for medical care. Findings of Fact 10

– 17.

5. Vision's *Revised Application* fails to demonstrate that the proposed charter school conforms to the legislative intent outlined in §1702-A as required by section 24 P.S. §17-1717-A(e)(2)(iii), to improve pupil learning, increase learning opportunities for all pupils, encourage the use of different and innovative teaching methods, create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site, provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system, and hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems. Finding of Fact 17; *In re: Allentown Engineering Academy Charter School*, Docket No. CAB 2014-01 at 22; *In re: Duquesne Charter School Founding Group d/b/a Duquesne Charter School*, Docket No. CAB 2013-01 at 12; *In re: Environmental Charter School*, Docket No. CAB 1999-14 at 21.

6. Vision's *Revised Application* fails to demonstrate that the proposed charter school may serve as a model for other public schools as required by 24 P.S. § 17-1717-A(e)(2)(iv). Findings of Fact 17; *In re: Allentown Engineering Academy Charter School*, Docket No. CAB 2014-01 at 22; *In re: Duquesne Charter School Founding Group d/b/a Duquesne Charter School*, Docket No. CAB 2013-01 at 12; *In re: Environmental Charter School*, Docket No. CAB 1999-14 at 21.

7. The parties were provided an opportunity to be heard regarding this process. Record.

DISCUSSION

I. STANDARD OF REVIEW

In reviewing a decision to deny a charter application, the CAB applies a *de novo* standard of review. *West Chester Area School District v. Collegium Charter School*, 812 A.2d 452 (Pa. 2002). This means the CAB looks at things fresh. Further, of the CSL provides:

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 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 CAB has interpreted the requisite “due consideration” as used in the CSL as such: “since it has to agree or disagree with the findings of the Directors, [the CAB] can of necessity, determine the weight of the evidence behind each finding and draw its own conclusions.” *In re Hills Academy Charter School*, (No. CAB 1999-12).

The CSL mandates that “[a] charter school Application submitted under the [CSL] shall be evaluated by the local board of school directors based on criteria, including, but not limited to,” the following:

1. The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing ...;
2. The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter;
3. The extent to which the application considers the information requested in §1719-A and conforms to the legislative intent outlined in §1702-A; and,
4. The extent to which the charter school may serve as a model for other public schools.

24 P.S. §17-1717-A(e)(2). Further, the CSL requires that charter school applications address the following issues:

1. The identification of the charter applicant.
2. The name of the proposed charter school.
3. The grade or age levels served by the school.
4. The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.
5. The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.
6. The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of §1723-A.
7. Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with §1318.
8. Information on the manner in which community groups will be involved in the charter school planning process.
9. The financial plan for the charter school and the provisions which will be made for auditing the school under §437 of the CSL.
10. Procedures which shall be established to review complaints of parents regarding the operation of the charter school.
11. A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.
12. Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of §1502.
13. The proposed faculty and a professional development plan for the faculty of a charter school.
14. Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence: Provided, That the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity.
15. A report of criminal history record, pursuant to §111, for all individuals who shall have direct contact with students.

16. An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa. C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.
17. How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school.

24 P.S. §17-1719-A. The CAB has acknowledged that §17-17-A(e)(2) permits school boards to develop their own local criteria when evaluating charter school Applications, as long as such criteria is consistent with the CSL. *See e.g., In re: Souderton Charter School Collaborative*, No. CAB 1999-2; *In re: Vitalistic Therapeutic Center Charter School*, No. CAB 1999-5.

II. Burden of proof

The degree of proof required to establish a case before an administrative tribunal is the same degree of proof used in most civil proceedings, i.e., a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery*, 70 A.2d at 856. Accordingly, the record in this matter is reviewed to determine if the evidence which Vision produced at the district level meets its burden of proving that its *Revised Application* satisfies all of the requirements enumerated in the CSL at 24 P.S. § 17-1717-A(e)(2), warranting the grant of a charter.

III. MERITS

A. Section 1717-A(e)(2)(iii) - §1719-A Factors

As mentioned above, §17 of the CSL references a list of factors in §19 that must be in the application. 24 P.S. §§17-1717-A and 17-1719-A. The District, in its Decision, found the application to be lacking in the information required by 24 P.S. §17-1719-A(1), (8), (14), and (15). The School District contests four factors on that list: (#1) Identification of the charter applicant; (#8) Information on the manner in which community groups will be involved in the charter school planning process; (#14) information on agreements or plans for extracurricular activities; and, (#15) criminal history checks and official clearances regarding child injury or abuse from the Department of Public Welfare.

1. Identification of charter applicant

Section 1719-A(1) requires an application to include the identity of the applicant. The District rightly complains about a lack of candor in the initial application and concern that Vision did not disclose essential information in that it failed to properly identify the applicant. The applying entity did not exist at the time of the December 18, 2019 hearing. It was not created until March 12, 2020, according to the Pennsylvania Bureau of Corporations and Charitable Organizations. This was after the initial application and only the District identified the issue in the initial denial. Findings of Fact Nos. 1, 7, and 8. In the Revised Application, Vision identified the applicant as Vision Academy Charter School of Excellence. This contradiction calls into question who is in a position of control of the proposed Charter School. Charter schools are public schools and from that there is a strong affirmative duty of proactive candor owing to the public. That was not provided. The District was right to question this factor and Vision offered no adequate explanation. Vision failed on this factor.

2. Involvement of community groups

Section 1719-A(8) requires an application to include information on involvement of community groups. The District points out that the *Application* and *Revised Application* are silent on this issue. Vision responds by saying,

Vision Academy did not have any community groups involved in the planning process; therefore, none are identified in the *Application*. There is no requirement under the Charter School Law which would compel an applicant to identify community partnerships that do not yet exist.

Vision brief filed January 21, 2021, at page 9.

The interpretation offered by Vision acknowledges that it did not have specific, committed community partnerships as of submission and consideration of the *Applications*, however, it also acknowledges that it did not name certain organizations that it might approach upon grant of a charter. The CSL does require community groups to be “involved in the charter school planning process,” but Vision seems to suggest that the language is not time-sensitive and community engagement must occur *at some point* in the planning process. However, without disclosure or identification in the application of specific, committed community partners, or potential community partners, Visions’ application is not compliant with the requirements, and the intent, of the CSL. 24 P.S. § 17-1719-A(8) because such an interpretation would vitiate the plan language of the CSL and cannot be countenanced. CAB disagrees with an interpretation that CSL requirements cannot be met unless a charter is first obtained. Vision failed on this factor.

3. Extracurriculars

Section 1719-A(14) requires an application to include information on extracurriculars, and, in particular, whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities with the school district. The District points out that the *Application* and *Revised Application* are

silent on this issue. On pages 12-13 in its brief Vision makes an argument, similar to its argument about community group engagement, about extracurriculars. Essentially, Vision is of the position that at the time of submission of the *Original Application and Revised Application* it was too early for that information to exist. Again, the plain wording of the statute requires something on this factor; thus, Vision should have put something forward. Vision failed on this factor.

4. Criminality checks

Section 1719-A(15) requires an application to include information on criminal background checks. The District points out that the *Application and Revised Application* are silent on this issue. Again, Vision says that it was too early for that information to exist. Again, the plain wording of the statute requires something on this factor; thus, Vision should have put something forward. Vision failed on this factor.

B. Section 1717-A(e)(2)(ii) Factors – Comprehensive Learning Experience

The CSL requires an application to demonstrate “the capability of the charter school Applicants, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.” 24 P.S. § 17-1717-A(e)(2)(ii). Within that “capability” issue are several factors of which the school district complains, which when considered in total, support the District’s position.

1. Financial Plan

Both parties contest the issue of adequacy of Vision’s financial plan. The requirement for a financial plan originates under § 17- 1719-A(9) of the CSL, which provides that the charter application must include “[t]he financial plan for the charter school and the provisions which will be made for auditing the school under section 437.”

The budget submitted by an applicant need only provide sufficient evidence that “the charter school has considered fundamental budgeting issues and has determined it will have the funds to operate.” *In re: Lincoln-Edison Charter School*, Docket No. CAB 2000-11 at 17. The CSL does not require specifics in the budget so long as it can be determined that the applicant is capable of providing a comprehensive learning experience for students. *Central Dauphin School District v. Founding Coalition of the Infinity Charter School*, 847 A.2d 195, 202 (Pa. Cmwlth. 2004). Deficiencies in the budget showing that the proposed school lacks the capacity to provide comprehensive learning experience can be grounds to reject an Application under Section 1717-A(e)(2)(ii).

The District contends that Vision Academy’s financial plan is lacking with respect to the proposed budget and financial controls and processes. The District further took issue with Vision’s budget in part with respect to startup cost origins, source for funding for legal counsel, fundraising efforts, inadequate funding for facility, and perceived low/overly optimistic professional salaries.

Vision maintains that its financial plan comports with the requirements of §1719A(9) because the CSL does not require specifics in the budget and a financial plan shall be adequate so long as the district can determine that the applicant is capable of providing a comprehensive learning experience for the students. By way of example, says Vision, there is no requirement that charter schools offer the same or similar salaries, *citing, Cent. Dauphin Sch. Dist. v. Founding Coalition of the Infinity Charter School*, 847 A.2d 195, 202 (Pa. Cmwlth.), *appeal denied*, 860 A.2d 491 (2004). In that case, the court held that the CSL does not require such specifics in the budget as dedicated money for physical education, teacher salaries claimed to be too low, and inadequate budget for computers and art supplies, “as long as the school board or upon appeal the [CAB] can determine that the applicant is capable of providing a comprehensive learning

experience for students.” *Id.* Thus, Vision concentrates more on the first part of the language than the second.

Review of the budgetary information submitted in the Original Application, and unchanged in the Revised Application, supports the District as the information is not adequate to support a conclusion of a comprehensive learning experience. The district rightly complains about a lack of information on startup / repayment costs, the source of legal costs, special education training, oversight and internal controls, overly optimistic salary assumptions, thin margin, and no reserve.

2. Location / Facility

In its Application, Vision identified 1800 Delmar Drive, Units # 25 and 20, Folcroft, Pennsylvania 19032. The District found to be lacking Vision’s information related to the facility. Section 19 of the CSL, requires an application to include a description and address of the physical facility in which the charter school will be located, as well as information about the ownership of and any lease arrangements related to that facility. 24 P.S. § 17-1719-A(11).

The District vigorously argues against the proposed facility as inadequate and inappropriate. The proposed facility was a former grocery store in a strip mall. It is not zoned properly for a school and requires a variance. (Certified Record, Transcript of Hearing, pages 27-28). Part of the building is underground, and many of the rooms have no windows. (Certified Record, Transcript of Hearing, pages 27-28). The building is not ADA compliant, and requires extensive renovations that have not been described, and the construction costs and time to complete necessary renovations have not been presented. There are no outdoor areas for recreation, the rear of the facility directly abuts a creek, and traffic in the parking lot for other businesses presents a safety and welfare concern for students.

The lease on the property was subject to other tenants in the facility. At the School Board hearing, there was discussion about an ability to lease the entire space, since the existing tenant, a furniture store, had the right to expand its area. Further, it was unknown when an additional two (2) leases for the upper floor of the property would expire. (Certified Record, Transcript of Hearing, pages 32-33).

The District seemingly questions if the building would ever qualify as an appropriate location for a school. Questions as to traffic from other businesses in the strip mall, the lack of a recreation area, the extensive renovations to create the school to render it ADA compliant. Questions about leases and zoning variances persist. The District offered that a backup facility should be identified, considering practical safety and financial concerns of the proposed facility.

Vision counters that (1) there is no requirement that the building be immediately suitable for students; (2) there is no requirement that there be an outdoor space for recess; and (3) there is no requirement that a “back-up” plan for an alternate location be identified in the application. *See Vision Brief* on January 21, 2021 at page 12. Vision is of the position that the District is attempting to demand more information than the CSL requires in connection with the proposed facility. As such Vision, does not further elaborate on this factor as part of the application process.

These arguments are akin to those put forth regarding community group engagement, extracurriculars, and background checks... i.e., there is no need to produce such information now. This, again, calls into question the application process and advances an interpretation that undermines efforts to have information provided by the applicant as part of the process. Further, even if information is provided, (or that the District requires more information than the CSL requires); the District openly and rightfully questions if the retail space at the facility could ever appropriately constitute educational space necessary for a school.

3. Curriculum Issues

A charter school application must include information regarding the “mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.” 24 P.S. § 17-1719-A(5). Vision submitted additional materials with respect to the proposed curriculum in the *Resubmitted Application*, but does not explain how, if at all, the amendments align with Pennsylvania standards.

The District identified several areas of concern involving Vision’s proposed curriculum, including that Spanish is not the most spoken language in the District, limited information about continuum of special education services and ELL, issues with the Application’s discussion of positive behavior support, discipline of special education students, the least restrictive environment requirements, state and local assessments, restraint and seclusion, and extracurricular activities. Further, the District determined that the resubmitted curricular materials (Revised Application – Appendix B) did not properly align or comply with Pennsylvania standards.

To the contrary, Vision asserts that it has demonstrated in its Applications and supporting documentation that it will provide a comprehensive learning experience that is aligned with all relevant Pennsylvania standards. 24 P.S. § 17-1717-A(e)(2)(ii). Vision contends that the Application identified the curriculum’s alignment with the Pennsylvania SAS curriculum framework, the Pennsylvania Core Standards, and the Pennsylvania Academic Standards. Vision is of the position that CAB has previously held that the CSL requires an application to include, *inter alia*, “[t]he mission and educational goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.” *In re: Appeal of Denial of Charter of Pocono Mountain Mathematics Science and Technology Charter School*, CAB 2004-05, p. 14. (finding the applicant adequately described its curriculum such that the

Charter School Law did not require the amount of detail sought by the district in denying the application). Vision argues, as in *Pocono Mountain Mathematics*, that the Applications “provide ample information explaining the proposed curriculum for all grade levels in each of the educational disciplines, as well as non-academic aspects of the curriculum.” *Id.*

Although a charter school application is not required to “completely describe the content of the curriculum,” it must be adequately described. *Appeal of Denial of Charter for Career Connections Charter Middle School*, (CAB No. 2006-03) citing *In re: Pocono Mountain Mathematics and Technology Charter School*, (CAB No. 2004-5). It seems that the District was reasonable in rejecting the Applications.

4. Medical

The District complains that Vision’s resubmitted application did not address the District’s concerns of the need to designate a physician, or formalize and finalize possible medical staffing services, for the proposed school as provided by the School Code. Vision did not brief this issue thus it concedes the issue.

C. Section 1717-A(e)(2)(iii) Factor – Legislative Intent

As mentioned above, a relevant consideration is the extent to which the application conforms to legislative intent stated in Section 2 of the CSL. 24 P.S. § 17-1702-A. That section states:

It is the intent of the General Assembly, in enacting this article, to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish all of the following:

- (1) Improve pupil learning.
- (2) Increase learning opportunities for all pupils.
- (3) Encourage the use of different and innovative teaching methods.

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(6) Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

24 P.S. § 17-1702-A.

The District contends that there is not enough evidence in the Revised Application to conclude that Vision satisfies the relevant legislative goals. The District points to CAB's decision *In re: Education InnovationsLAB*, CAB No. 2007-01 wherein it was found that the applicant put forward insufficient evidence that the applicant would provide "expanded choices in the types of educational opportunities available within the public school system."

Vision argues that its Application demonstrates that it will provide a unique educational opportunity to its students, employing the Core Knowledge curriculum, the inverted classroom, offering foreign language in kindergarten, offering an extended day program providing supplemental time for academic improvement, clubs, and STEM and offering SmartLab educational opportunities to its students. All of which provides an innovative choice for parents and students in and around the District.

Vision asserts that 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." *McKeesport Area School Dist. v. Propel Chart. Sch.*, 888 A.2d 912, 917 (Pa. Cmwlth. 2005) To this end, "the Charter School Law 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." *Id.*

As already discussed above, the shortcomings of the proposed curriculum do not convince that Vision will improve pupil learning. The main reason is want of new program. There appears

to be nothing new beyond the District’s offerings and the offerings of Vision Academy Charter School in William Penn School District.

D. Section 1717-A(e)(2)(iv) Factor – Model for Other Public Schools

The District evaluated Vision’s Applications by the metric of the “extent to which it will serve as a model for other public schools.” 24 P.S. § 17-1717-A(e)(2)(iv). CAB has reasoned that “charter schools should improve public education.” *In re: Bear Creek Community Charter School*, CAB No. 2003-3. Given the discussion above: deficiencies in the application; lack of new program;² inadequate facility; and, a limited financial plan, one can rightfully conclude that the proposed school would not be a model for other public schools, as required by the CSL. The District was right to do so here.

IV. CONCLUSION

For all of the reasons stated above upon giving due consideration to the findings of the School Board, the evidentiary record, and the requirements of the CSL, the following order shall enter:

² *In re: Family Choice*, CAB No. 2007-06 (“An applicant does not submit a model school where the applicant can point to very little that distinguishes it from other public schools.”); *In re: Education InnovationsLAB*, CAB No. 2007-01 (“When the proposed offerings will not actually expand choice, the application is lacking.”); *In re: Penn Johns Charter School*, CAB No. 2008-05; and *In re: City College Prep Charter School*, CAB No. 2006-01 (“CSL requires more than one innovative teaching method in order for a charter to be considered a model for other schools.”)

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

<p>Vision Academy Charter School of Excellence,</p> <p style="padding-left: 40px;">Appellant,</p> <p style="text-align: center;">v.</p> <p>Southeast Delco School District,</p> <p style="padding-left: 40px;">Appellee</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CAB Docket No. 2020-02</p>
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ORDER

AND NOW, this 17th day of December 2021, based upon the foregoing and the vote of this Board³, the May 28, 2020 decision of the Southeast Delco School District to deny a charter is **AFFIRMED**.

For the State Charter School Appeal Board



Chairman

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Date of mailing: December 17, 2021

³ At the Board’s meeting on October 17, 2021, the decision was affirmed by a vote of 3 to 2 with Members Ortega, Schwartz, and Marten voting to deny the appeal and Members Faustman and Killion voting to grant.