

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

<b>Young Scholars of Southeastern Pennsylvania Charter School, Appellant</b>	:	
	:	
	:	
	:	<b>CAB Docket No. 2021-05</b>
v.	:	
	:	
	:	
<b>Norristown Area School District, Appellee</b>	:	

**OPINION**

This matter comes before the Pennsylvania Charter School Appeal Board (“CAB”) on appeal by Young Scholars of Southeastern Pennsylvania Charter School (hereinafter “YSSCS”) 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”). YSSCS appeals from the decision issued August 19, 2020, by the Norristown Area School District (hereinafter “NASD” or the “District”) which rejected and denied YSSCS’s second revised application—filed on May 18, 2022—to open a charter school in the District. For the reasons stated below, the decision of the NASD is affirmed, and the appeal of YSSCS is dismissed.

**FINDINGS OF FACT**

**Procedural History**

1. On November 14, 2019, the NASD received YSSCS’ Initial Application to open and operate a charter school within the District. (NASD pp. 0001– 2778).
2. On November 18, 2019, the solicitor for the NASD notified counsel for YSSCS that the NASD Board of Directors (hereinafter “Board”) scheduled a public hearing on the Initial

Application pursuant to 24 P.S. 17-1717-A(d) for Monday, December 16, 2019. (NASD pp. 2780 – 2782).

3. On December 16, 2019, the Board held a public hearing to consider YSSCS' Initial Application; the hearing commenced at 6:32 p.m. and was transcribed. (NASD pp. 2783 – 2996).
4. On February 24, 2020, the Board voted at a public meeting to deny YSSCS' Initial Application. (NASD pp. 3017 – 3018).
5. On March 2, 2020, counsel for the NASD provided YSSCS with written notice of the denial of its Initial Application. (NASD pp. 2999 – 3018).
6. On March 13, 2020, YSSCS submitted a Revised Application to open and operate a charter school (hereinafter "Revised Application") in the District. (NASD pp. 3019 – 5718).
7. On April 23, 2020, the solicitor for the NASD notified counsel for YSSCS that the Board scheduled a public hearing (to be held virtually) on YSSCS' Revised Application pursuant to 24 P.S. 17-1717-A(f) for Monday, April 27, 2020, commencing at 7:00 p.m. (NASD pp. 5719 – 5721).
8. No further public hearing was held on YSSCS' Revised Application; on April 27, 2020, the Board voted to deny YSSCS' Revised Application. (NASD pp. 5722 – 5723).
9. On April 28, 2020, counsel for the NASD provided YSSCS with written notice of the denial of its Revised Application. (NASD pp. 5724 – 5746).
10. On May 18, 2020, YSSCS submitted a Second Revised Application to open and operate a charter school ("Second Revised Application") in the District. (NASD pp. 5766-8752).

11. On August 11, 2020, the solicitor for the NASD notified counsel for YSSCS that YSSCS' Second Revised Application would be considered at a Special Meeting of the Board on August 17, 2020; a meeting access link was issued. (NASD pp. 8754-8755).
12. No further public hearing was held on YSSCS' Second Revised Application; on August 17, 2020, the Board met and voted to deny YSSCS' Second Revised Application. (NASD pp. 8754-8757).
13. On August 19, 2020, counsel for the NASD provided YSSCS with written notice of the denial of its Second Revised Application. (NASD pp. 8758-8786).
14. The operative document on which to base a decision of YSSCS' request to open and operate a charter school in the District is the Second Revised Application, both as a standalone document and as it compares to the Application and the Revised Application.
15. The operative transcript on which to base a decision of YSSCS' request to open and operate a charter school in the District is the hearing transcript dated December 16, 2019. (NASD pp. 2783-2995).
16. The NASD denied YSSCS' Second Revised Application for the following reasons: the Second Revised Application failed to meet the criteria set forth in § 17-1717-A(e)(2)(i)-(iv) by (1) failing to demonstrate the capability, in terms of support and planning, to open a school that would provide a comprehensive learning experience, (2) failing to adequately budget for critical teaching jobs, program staffing, and special education services, (3) failing to present a complete and properly aligned educational curriculum, (4) failing to produce sufficient evidence of sustainable support from the community, and (5) failing to demonstrate how YSSCS is unique or innovative, or could serve as a model for other schools. (NASD pp. 8778-8786).

17. The NASD also noted concerns regarding YSSCS Founding Board Member Adam Kenz, who did not disclose his legal name change and was actively employed by the Pennsylvania Department of Education. (*Id.*).
18. On October 1, 2020, YSSCS filed an Emergency Petition to Certify Petition for Appeal (the "Petition") with the Court of Common Pleas of Montgomery County, Pennsylvania, as set forth in the Charter School Law. (Board records).<sup>1</sup>
19. On April 19, 2021, the NASD and YSSCS filed a Joint Stipulation to Certify Signatures for Appeal ("Joint Stipulation") in which the parties stipulated that YSSCS obtained more than the one thousand (1,000) valid signatures required by the Charter School Law at § 17-1717-A(i)(5). (*Id.*).

---

<sup>1</sup> Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa. Code §31.1 *et. seq.*, at §35.173, which provides, in pertinent part, as follows:

§35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

1 Pa. Code §35.173.

Official notice is also permitted under case law. *See, for example, Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A. 2d 991 (Pa. Cmwlth. 1987), in which the Commonwealth Court explained:

"Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work.

521 A. 2d at 994 n. 6.

Official notice of the Board's records may be taken pursuant to the General Rules of Administrative Practice and Procedure (GRAPP), 1 Pa. Code § 31.1 *et seq.*, at § 35.173, which permits the presiding officer to take official notice of the Board's own records. *See Gleeson v. State Bd. of Medicine*, 900 A.2d 430, 440 (Pa. Cmwlth. 2006), *appeal denied*, 917 A.2d 316 (Pa. 2007). All citations to "Board records" are based on this taking of official notice.

20. On April 19, 2021, the Honorable Stephen C. Tolliver, Sr. issued an Order certifying the Petition and authorizing YSSCS to file its appeal with the CAB. (*Id.*).
21. On June 1, 2021, YSSCS filed the present Appeal from Denial of Charter Request. (*Id.*).
22. On June 18, 2021, the NASD filed its Answer to Appeal from the Denial of Charter Request and the Certified Record. (*Id.*).
23. On July 19, 2021, the CAB issued a Scheduling Order. (*Id.*).
24. The Scheduling Order, issued on July 19, 2021, required the parties to file Motions to Supplement the Record by August 16, 2021. (*Id.*).
25. Neither YSSCS nor the NASD filed Motions to Supplement the Record. (*Id.*).
26. The Scheduling Order, July 19, 2021, established that the Appellant's brief on the merits and proposed findings of fact and law, were to be filed by October 27, 2021. (*Id.*).
27. In October 2021, YSSCS notified the NASD and the CAB of their need for additional time to file a response. (*Id.*).
28. On October 26, 2021, the CAB issued an Amended Scheduling Order, establishing the deadline for YSSCS to file their Appellant brief on the merits and proposed findings of fact by November 8, 2021. (*Id.*).
29. On November 8, 2021, YSSCS, by and through its attorney, filed their brief and proposed findings of fact and conclusions of law. (*Id.*).
30. The Amended Scheduling Order, filed on October 26, 2021, established the filing deadline for the NASD's brief on the merits and proposed findings of fact and conclusions of law as December 23, 2021. (*Id.*).
31. On December 22, 2021, the NASD filed its brief on the merits and proposed findings of fact and conclusions of law. (*Id.*).

32. On December 6, 2022, a hearing was held before the CAB at which counsel for YSSCS and the NASD made presentations and responded to questions from members of the CAB. (See Notes of Testimony, 12/06/22 CAB meeting).
33. On January 10, 2023, the CAB voted upon the matter at its meeting; however, the matter was tabled because of a tie in the voting outcome. (See Notes of Testimony, 02/21/23 CAB meeting).
34. On February 21, 2023, the CAB voted to deny the instant appeal. (*Id.*).

### **Community Support**

35. YSSCS' Second Revised Application projects first year enrollment to be 220 students. (NASD 5779).
36. YSSCS' Second Revised Application included 133 pre-enrollment forms identifying 159 students for potential enrollment. (NASD pp. 6033-6165).
37. Most of the petitions contained the following language:

I \_\_\_\_\_, hereby state my intent to enroll my child(ren) in the Young Scholars of Southeastern Pennsylvania Charter School (YSSCS) once it receives its charter. . . .

I understand that the Young Scholars of Southeastern Pennsylvania Charter School (YSSCS) has not yet been granted a charter. By signing this pre-enrollment form, I am stating my intent to send my child(ren) to the YSSCS, but I am not obligated to do so. If a charter is granted for the school, I understand that I will need to complete official enrollment documents in order for my child(ren) to be enrolled at the school. YSSCS is projected to open in September 2020.

(NASD pp. 6033–6164).

38. Also attached to YSSCS' Second Revised Application were Online Enrollment forms identifying 112 students for potential enrollment. (NASD pp. 6028–6032).<sup>2</sup>

---

<sup>2</sup> At least 45 of the students identified for potential enrollment will not be eligible to enroll in kindergarten through fifth grade by the proposed opening date of YSSCS based upon the information provided. (NASD 6028–66164).

39. The Second Revised Application also included ten (10) “Online Letters of Support.” (NASD pp. 6167-6179).<sup>3</sup>
40. YSSCS’s Second Revised Application does not include any letters of support from community businesses, organizations, or other members of the Norristown community. (See *Generally* NASD pp. 5766- 8752).
41. YSSCS’s Second Revised Application does not indicate that YSSCS has engaged with any community groups to assist in the charter planning process. (NASD p. 5774; YSSCS Appeal, p. 10).
42. YSSCS’ Second Revised Application does not identify any support for YSSCS’ charter from teachers, outside of the founding coalition; YSSCS’ Second Revised Application also does not identify any support for YSSCS’ charter from any local or statewide community leader. (See *Generally* NASD pp. 5766- 8752).
43. At the public hearing held on December 16, 2019, the following individuals were present on behalf of YSSCS: Adam Kenz, Brittany Trofe, Bastian Schotsman, Dr. Anthony Mooring, Cheryl Jackson, Denise Agurto, and Jennifer Arevalo (YSSCS Founding Members); also present on behalf of YSSCS were Ryan Schumm of Charter Choices and Brian Leinhauser, counsel for YSSCS. (NASD pp. 2788-2790).
44. At the public hearing, Cheryl Jackson, a District resident and one of the founding members of YSSCS, spoke in support of the YSSCS’ charter. (NASD pp. 2954-2955).

---

<sup>3</sup> It should be noted that the ten “online letters of support” appear to be automatically generated emails that were produced because of filling out an electronic form. None of the automatically generated emails are actual letters written by an individual in the Norristown community wishing to express support for YSSCS. Moreover, none of the “online letters” articulate any reasons why the writer supports the establishment of YSSCS’ charter. (NASD 6167-6179).

45. Most of the other public comments received at the public hearing were made in opposition to the issuance of a charter to YSSCS. (NASD pp. 2948-2954; 2955-2961).<sup>4</sup>

46. Less than half of the members of the founding coalition are members of the NASD community. (NASD p. 5875).

### **Due Process**

47. 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 Nos. 1-12; 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 based upon the CAB's review of the certified record. 24 P.S. § 17-1717-A(i)(6).
3. The CAB is statutorily required to conduct its review "on the record as certified by the local board of directors." 24 P.S. § 17-1717-A(i)(6).
4. 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

---

<sup>4</sup> Five (5) Norristown residents provided comments on YSSCS' charter beside Ms. Jackson. (See (NASD 2948-2954; 2955-2961).

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).

5. YSSCS did not demonstrate sustainable support for the charter school plan by teachers, parents, other community members, and students, including comments received at public hearing. 24 P.S. §17-1717-A(E)(2)(I). Findings of Fact Nos. 35-46.
6. The parties were provided with an opportunity to be heard regarding this process. (Record, *passim*).

## **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 Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 452 (Pa. 2002).

Further, 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). As such, the CAB is empowered to “determine the weight of the evidence behind each finding and draw its own conclusions.” *In re Hills Acad. Charter Sch.*, (No. CAB 1999-12).

The General Assembly enacted the CSL to foster the following goals:

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 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.

## **II. BURDEN OF PROOF**

The degree of proof required to establish a case before an administrative tribunal in an action of this nature is preponderance of the evidence. *Kirkpatrick v. Bur. of Professional and Occupations Affairs, State Bd. of Barber Examiners*, 117 A.3d 1286, 1288 n.7 (Pa. Cmwlth. 2015). Preponderance of the evidence is the least rigorous evidentiary standard. *Helwig v. Com., Dep't. of Trans., Bur. of Driver Licensing*, 99 A.3d 153, 158 (Pa. Cmwlth. 2014). “A preponderance of the evidence is ‘such proof as leads the fact-finder...to find that the existence of a contested fact is more probable than its nonexistence.’” *Dep't. of Trans. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Cmwlth. 2010) (quoting *Sigafoos v. Pa. Bd. of Probation and Parole*, 503 A.2d 1076, 1079 (Pa. Cmwlth. 1986)). In other words, it is a “‘more likely than not’ standard.” *Commonwealth v. \$6,425.00 Seized From Esquilin*, 880 A.2d 523, 552 (Pa. 2005). Accordingly, the record in this matter is reviewed to determine if the evidence that YSSCS produced at the district level meets its burden of proving that the 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. REQUEST FOR EVIDENTIARY HEARING AND SUBMISSION OF SUPPLEMENTAL MATERIAL**

In its appeal, YSSCS requests an evidentiary hearing and the opportunity to offer supplemental material. Section 17-1717-A(i)(6) of the CSL provides that the District's decision shall be reviewed by the CAB based upon the District's certified record. 24 P.S. § 17- 1717-A(i)(6).

CAB has discretion to allow either party to supplement the record applies in the event supplemental information exists that was previously unavailable. *Id.* Information that was previously unavailable should not include information that could have been obtained and submitted for inclusion into the record prior to the district's vote. *Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400,405 (Pa. Commw. Ct. 2003).

On July 19, 2021, the CAB issued a Scheduling Order. The Scheduling Order required the parties to file Motions to Supplement the Record by August 16, 2021. Neither YSSCS nor the NASD filed Motions to Supplement the Record. Additionally, in its appeal to the CAB, YSSCS does not indicate what information, if any, was previously unavailable during the District's review of its charter school application. As a result, YSSCS request for an evidentiary hearing and submission of supplemental materials is denied.

#### **IV. MERITS**

##### **Section 1717-A(e)(2)(i) – Demonstrated, sustainable support**

Pursuant to Section 1717-A(e)(2)(i) of the CSL, the granting of a charter depends, in part, upon the “demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearings held under subsection (d).” 24 P.S. § 17-1717-A(e)(2)(i). This support must be demonstrated when the application is submitted and considered. *Id.* Moreover, the Charter School Law includes a mandatory period between the public hearing held before the local school board and the local school board’s decision, which allows additional time for the applicant to show community support. 24 P.S. §17-1717- A(d). To satisfy this standard, an applicant must demonstrate “support sufficient to sustain and maintain a proposed charter school as an ongoing entity.” *Bear Creek Cmty. Charter Sch.*, CAB Docket No. 2003-3. Further, a charter applicant must “show that the

charter enjoys reasonably sufficient support in the aggregate from all groups, ‘not showing some minimum level of support from each of the more discrete groups listed.’” *Montour Sch. Dist. v. Propel Charter Sch.-Montour*, 889 A.2d 682, 687 (Pa. Cmwlth. 2006) (quoting, *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131 (Pa. Cmwlth. 2001)). “Failure to demonstrate strong support in any one category is not necessarily fatal to an application.” *Penn Hills Charter Sch.*, CAB No 2001-07. But a charter applicant must show “a reasonable amount of support in the aggregate” to demonstrate that “the support will maintain the school as an ongoing entity.” *Phoenix Acad. Charter Sch.*, No. CAB 1999-10; *Hill Acad. Charter Sch.*, CAB No. 1999-12.

In the instant case, the NASD noted in its written decision that the only evidence of community support included in the YSSCS’ Second Revised Application are :(1) pre-enrollment forms, and (2) ten generic emails characterized as letters of support. The NASD contends that not all 270 pre-enrollment forms would be eligible for enrollment within the first year of operation, so they cannot all be considered. Additionally, the NASD points out that the emails used to show support for the charter school were the product of the filling out of an online form, and that they were not actual letters expressing support for the establishment of YSCS as a charter school in Norristown. The NASD goes on to point out that YSSCS failed to show support from local or statewide community leaders or engagement with community groups to assist in the charter planning process.

YSSCS posits that although not all the pre-enrollment forms may result in enrollment, the projected number of enrollments at 220 are sufficient. They contend that the online letters of support are demonstrative of community support. They go on to say that the language of § 17-1717 – A(e)(2)(i) has been interpreted to mean that a charter school applicant must “show that the charter enjoys reasonably sufficient support in the aggregate from all groups, ‘not showing some

minimum level of support from each of the more discrete groups listed.”” *Montour School Dist. V. Propel Charter School-Montour*, 889 A.2d 682, 687 (Pa. Commw. Ct 2006) quoting *Brackbill v. Ron Brown Charter School*, 777 A. 2d 131, 138 (Pa. Commw. Ct 2001). YSSCS goes on to say that while community support should be considered in the aggregate, any perceived deficiency in this area should not be deemed indicative of a lack of overall community support. *Penn Hills Charter School*, CAB Docket No. 2001-7, p. 5. Finally, YSSCS argues that because most (but, not all) members of the founding coalition reside in Montgomery County, their desire to establish a charter school is a valid representation of community support.

Upon a *de novo* review of the record, the CAB is in agreement with the NASD’s ruling that YSSCS failed to provide evidence of a reasonable amount of community support for its charter school in Norristown, Pennsylvania. The NASD is correct when it points out that the ten “online letters of support” appear to be automatically generated emails that were produced because of filling out an electronic form. None of the automatically generated emails are actual letters written by an individual in the Norristown community wishing to express support for YSSCS. Moreover, none of the “online letters” articulate any reasons why the writer supports the establishment of YSSCS’ charter. As a result, the ten “online letters of support” attached to YSSCS’ Second Revised Application are insufficient to establish community support.

Additionally, YSSCS’s Second Revised Application does not indicate that YSSCS has engaged with any community groups to assist in the charter planning process. YSSCS’ Second Revised Application does not include any letters of support from community businesses, organizations, or other members of the Norristown community. At the public hearing, Cheryl Jackson, a District resident and one of the founding members of YSSCS, was the only member from the Norristown community that spoke in support of the YSSCS’ charter. Finally, YSSCS’

Second Revised Application does not identify any support for YSSCS' charter from teachers, outside of the founding coalition; and YSSCS' Second Revised Application also does not identify any support for YSSCS' charter from any local or statewide community leader.

Likewise, the signatures submitted to the Court of Common Pleas are not evidence of sustainable support.<sup>5</sup> Those signatures were collected after the fact and for a different purpose. Moreover, those individuals could have appeared at the hearing to express their support for the charter school plan but apparently did not do so. There is no evidence in the record that indicates those individuals signed petitions of support, or sent letters of support to the NASD, or provided written testimonials for the NASD to consider, or provide any other similar evidence that would tend to show that they supported YSSCS. Therefore, it cannot be presumed that their support is sustainable simply because they signed the petition to allow YSSCS to appeal the NASD's decision.

Finally, In *Appeal of Vitalistic Therapeutic Center Charter School*, the CAB recognized that where a charter school's board of directors consists mainly of individuals who are not residents of the district in which the school is to be located, that fact will support a determination that the charter school has failed to demonstrate sustainable support. CAB Docket No. 1999-06, p. 8-9. *See also Lorraine K. Monroe Academy Charter School*, CAB Docket No. 2000-16, pp. 12-13 (noting that the founder of a charter school to be located in Millcreek Township School District was from Harrisburg, not from Millcreek Township). In the instant case, YSSCS has not presented any evidence that the majority of its board members own businesses or property in Norristown. As

---

<sup>5</sup> YSSCS, in its proposed findings of fact, indicated that in support of its charter application, Young Scholars submitted a petition containing in excess of 2,596 qualified signatures. (Appellant Proposed Findings of Fact and Conclusions of Law, pg. 5). According to YSSCS, each of the signatories provided, in addition to their signature, their names, address, and many provided their telephone number and electronic mailing address. YSSCS does not cite to the record indicating where these petitions can be found.

a result, there are no mitigating factors to consider when observing that a majority of YSSCS' founding coalition and board does not reside in Norristown.

#### **IV. CONCLUSION**

As YSSCS has failed to show sustainable community support in Norristown for its second revised charter school application, there is no need to address any other deficiencies addressed by the NASD. For all of the reasons stated above giving due consideration to the findings of the District, the evidentiary record, and the requirements of the CSL, the following order shall enter:

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

<b>Young Scholars of Southeastern Pennsylvania Charter School, Appellant,</b>	:	
	:	
	:	
	:	<b>CAB Docket No. 2021-05</b>
<b>v.</b>	:	
	:	
<b>Norristown Area School District, Appellee</b>	:	
	:	

**ORDER**

**AND NOW**, this 24th day of April 2023, based upon the foregoing and the vote of this Board<sup>6</sup>, the Appeal of the Young Scholars of Southeastern Pennsylvania Charter School is **DENIED**.

For the State Charter School Appeal Board,



\_\_\_\_\_  
Chairperson

---

<sup>6</sup> At the Board’s meeting on Tuesday, February 21, 2023, the decision to deny the Charter School’s appeal was affirmed by a vote of 2 to 1 with Members Marten, and Schwartz voting to deny the appeal. Member Faustman voted to grant. Member Killion was absent, and Member Mumin abstained from voting.

For Appellant: Brian H. Leinhauser, Esquire  
MacMain, Connell & Leinhauser, LLC  
433 West Market Street, Suite 200  
West Chester, PA 19382  
Also sent by email: [bleinhauser@macmainlaw.com](mailto:bleinhauser@macmainlaw.com)

For Appellee: Peter C. Amuso, Esquire  
Nicole L. Feight, Esquire  
Rudolph Clark, LLC  
350 Sentry Parkway East  
Building 630, Suite 110A  
Blue Bell, PA 19422  
Also sent by email: [pamuso@rudolphclarke.com](mailto:pamuso@rudolphclarke.com)  
[nfeight@rudolphclarke.com](mailto:nfeight@rudolphclarke.com)

Docketing: RA-EDCHARTERBOARD@pa.gov

Date Mailed: 4/25/2023