

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

**Dogwood Charter School,
Appellant,**

vs.

**Chartiers Valley School District,
Appellee.**

Docket No. CAB 2022-01

OPINION AND ORDER

This appeal by Dogwood Charter School (“Dogwood”) comes before the Pennsylvania State Charter School Appeal Board (“CAB”) from the alleged failure of the Chartiers Valley School District (“CVSD” or “School District”) to render a timely decision on Dogwood’s revised charter school application submitted to the School District on November 15, 2021 (the “November 2021 Application” or the “Revised Application”). For the reasons stated below, CAB finds that the School District did not render a timely decision regarding the Revised Application, and therefore in accordance with the provisions of the Charter School Law¹ (“CSL”) CAB is required to make relevant findings of fact and conclusions of law in this matter.

¹ The act of June 19, 1997, P.L. 225, No. 22, *as amended*, 24 P.S. §§ 17-1701-A through 17-1751-A.

Based upon the record which CAB has before it for consideration, Dogwood has not satisfied its burden of showing that it has met the requirements under the CSL to be granted a charter and therefore Dogwood's request to be authorized to create a charter school within CVSD will be denied.

BACKGROUND AND PROCEDURAL HISTORY

Dogwood proposes to create a charter school within the geographic boundaries of CVSD. Dogwood's school would be based upon the educational philosophies of Charlotte Mason. It would utilize "a relational, humanist paradigm designed to fit the emerging postmodern Conceptual Age,"^{2, 3} where "students [] take ownership of their own learning in a way that honors each student as a whole person,"⁴ instead of what Dogwood describes as a "traditional academic center based on the rational, behaviorist paradigm used during the Industrial/Modern and Information Ages."⁵ Dogwood initially proposed to limit service to students in grades K-8; however, after its first year of operation it would expand, one (1) grade per year, until it provided educational opportunities to children in grades K-12.

Dogwood filed two (2) applications with CVSD to create a charter school. The first application submitted by Dogwood (the "Initial Application") was filed on November 13, 2020, and sought approval for the creation of a charter school which would be located at a facility in Presto, Pennsylvania (within the geographic confines

² The certified record submitted to CAB by the School District was transmitted in electronic format via USB flash drive with interior folders, subfolders, and compressed folders. The individual electronic files which make up the certified record transmitted by the School District were provided in multiple electronic formats (e.g., Adobe .pdf, Microsoft Excel .xlsx) and do not contain Bates or a similar uniform numbering system. Consequently, citation to the record will be made by referencing "School District USB," and the specific folder and/or file as they appear in the USB, along with the page number(s) within the referenced file, if available.

³ School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 18.

⁴ School District USB at Chartiers-Dogwood Charter School Hearing 12 20 2021.pdf at 11-12.

⁵ Id.

of the School District). That initial application is not currently the subject of an appeal before the CAB. However, the procedural history of that Initial Application is relevant to whether the School District complied with the statutorily set time limits when rendering a decision concerning Dogwood’s subsequently filed revised application on November 15, 2021 (the “Revised Application”). Additionally, it appears that a sizeable portion of the evidence of support gathered by Dogwood as part of the Initial Application was resubmitted as evidence of support for the Revised Application. Therefore, a brief recitation of the procedural history of both the Initial and Revised Applications is appropriate.

Dogwood filed its Initial Application to create a charter school within CVSD on November 13, 2020. As required by the CSL, the School District held public hearings on the Initial Application in late December 2020 and early February 2021. At those meetings, representatives of Dogwood, the public, as well as CVSD teachers and the Superintendent for CVSD provided testimony.

By way of a school board resolution dated February 23, 2021, CVSD denied Dogwood’s Initial Application. The resolution specified over 25 alleged deficiencies with Dogwood’s Initial Application and alleged Dogwood’s proposal failed to conform to the legislative intent found in the CSL.

In March 2021, Dogwood attempted to appeal the School District’s denial of the Initial Application to the CAB. However, by way of letter dated April 9, 2021,

legal counsel for the CAB notified Dogwood that Dogwood's appeal was being rejected because it did not demonstrate compliance with Section 1717-A of the CSL, 24 P.S. § 17-1717-A. Specifically, Section 1717(A)(i)(2-5) requires a charter school appealing the denial of a charter application to submit evidence of having obtained a requisite number of school district residents' signatures on a petition gathered within 60 days of the denial of the charter school's application. Those signatures and the petition are then presented to the court of common pleas of the county in which the charter school would be located for the court to determine the sufficiency of the petition. If a charter school is successful in obtaining the requisite number of confirmed signatures, then the local court of common pleas will issue a decree to that effect. Dogwood had not submitted with its appeal of the Initial Application the requisite decree evidencing it had gathered the necessary signatures; consequently, CAB determined it did not have jurisdiction to accept Dogwood's appeal. Dogwood did reserve the right to amend its appeal, which was acknowledged by CAB.

On November 15, 2021, Dogwood filed a second application for a charter school with CVSD. That application was entitled "Revised Charter Application for Dogwood Charter School," and, among other things, indicated a change in proposed school location from the initial facility located in Presto, Pennsylvania, to the location of a former parochial school at 1734 Bower Hill Road, Pittsburgh, Pennsylvania (still located within the School District).

The School District held a public hearing on the Revised Application on December 20, 2021, at which time representatives for Dogwood again appeared and presented testimony in support of the Revised Application. The first two (2) CVSD board meetings which occurred at least 45 days after Dogwood submitted its November 15, 2021, application were a January 11, 2022, Workshop/Special Action meeting, and a January 25, 2022, Regular Board Meeting. CVSD did not vote on the Revised Application at either the January 11 or the January 25, 2022, meetings.

Via a *Petition for Appeal by Dogwood Charter School* (the “Petition”) and a supporting *Memorandum of Law in Support of Petition for Appeal by Dogwood Charter School* (“Dogwood’s Initial Brief”), both dated February 4, 2022 (docketed by CAB on February 8, 2022), Dogwood filed this appeal currently pending before the CAB. Dogwood’s theory on appeal is that the November 15, 2021, application was a revision of the Initial Application submitted in the fall of 2020. Therefore, section 1717-A(f) of the CSL, 24 Pa.C.S. § 17-1717-(A)(f), required the School District to vote on the Revised Application at the first public meeting occurring 45 days after resubmission of the Revised Application.

On February 22, 2022, CVSD adopted a resolution purporting to deny Dogwood’s resubmitted application for substantially the same reasons which had caused CVSD to deny Dogwood’s Initial Application. Notice of CVSD’s purported action was transmitted to Dogwood via letter dated March 3, 2022. By way of letter

dated the same date (March 3, 2022), CAB acknowledged receipt of the February 4, 2022, Appeal filed by Dogwood and directed CVSD to file an answer to Dogwood's Petition.

On March 14, 2022, CVSD, through its legal counsel, Donald J. Palmer, Esquire, filed its *Answer to Petition of Appeal* (the "Answer"). The same day, CVSD submitted to the CAB a cover letter and USB Drive (the "School District USB") containing the certified record of the proceedings before the School District. On March 16, 2022, CAB delegated this matter to a hearing officer to address any procedural issues raised in the case, as well as to establish a schedule for supplementing the record.

On May 5, 2022, an *Order Establishing Deadline to Supplement the Record* was issued by the Hearing Officer. The Order directed that any motion to supplement the record was to be filed on or before June 3, 2022. On June 3, 2022, Dogwood filed its *Motion to Supplement the Record* and proposed to add 115 additional letters in support of the charter school; that motion was opposed by CVSD through its June 13, 2022, *Brief in Opposition to Dogwood's Motion to Supplement the Record*. On July 5, 2022, the Hearing Officer issued an *Order Denying Motion to Supplement the Record*. Pertinent to the Hearing Officer's ruling, and which will be addressed further in the Discussion portion of this *Opinion and Order*, the additional letters of support clearly indicated they were obtained in support of

Dogwood obtaining a charter for a school in a different, nearby school district -- the Bethel Park School District -- and did not indicate how the signers might feel about Dogwood obtaining a charter in CVSD.

On the same date that the hearing officer issued his *Order Denying Motion to Supplement the Record* (July 5, 2022), a *Briefing Schedule Order* was issued. On or about August 10, 2022, Dogwood filed its *Dogwood Charter School's Brief in Support of Appeal* ("Dogwood's Brief"). The School District filed its *Brief in Opposition to Dogwood Charter School Petition for Appeal* ("CVSD's Brief") on September 22, 2022, and Dogwood responded on September 23, 2022, with its *Dogwood Charter School's Reply Brief in Support of Appeal* ("Dogwood's Reply Brief").

At its July 11, 2023, meeting, CAB reviewed the record in this matter and entertained oral argument from the parties regarding Dogwood's Revised Application. After consideration of the facts and arguments before it, at CAB's September 12, 2023, meeting, CAB voted to deny Dogwood's appeal. The record in this matter is therefore closed and ready for disposition.

FINDINGS OF FACT⁶

PROCEDURAL HISTORY

1. On November 13, 2020, Dogwood filed its Initial Application with the School District to create a charter school within the School District. (School District USB at *1 Application Intro through Appendix E.pdf* at 2; Petition at ¶1, Answer at ¶1).

2. Public hearings were held on the Initial Application on December 22, 2020, and February 9, 2021, at which representatives of Dogwood, the public, and CVSD teachers and administration provided testimony. (Petition at ¶ 2, Answer at ¶2.)

3. By way of resolution dated February 23, 2021 (transmitted to Dogwood via cover letter dated February 25, 2021), CVSD denied Dogwood’s Initial Application. (Petition at ¶ 3, Answer at ¶3; School District USB at *Letter to Dogwood Charter School - 2.25.2021.pdf*)

4. CVSD concluded that Dogwood’s Initial Application failed to satisfy the requirements of section⁷ 1717-A(e)(2) due to 20 enumerated deficiencies and

⁶ Finding of Fact have been limited to those facts necessary to establish the requisite procedural history and those facts necessary to understand CAB’s ultimate determination in this matter. To the extent that facts and topics which CAB must consider under the CSL when evaluating a charter school application have been omitted, they have been omitted because CAB found sufficient support to determine Dogwood was in substantial compliance with the relevant requirement(s) as set forth in the CSL and/or that any non-compliance was *de minimis* in nature and could have been resolved via minor technical revisions to the application without need to reject the application.

⁷ Any references to “section” without further modification relate to the section number as referenced within the CSL, 24 P.S. §§ 17-1701-A through 17-1751-A, *as amended*.

exceptions; that Dogwood’s Initial Application failed to conform to the legislative intent set forth in section 1702-A in five (5) enumerated ways; that Dogwood’s Initial Application failed to meet the requirement set forth in section 1715-A in two (2) ways; and that Dogwood’s Initial Application failed to show compliance with section 1719-A. (School District USB at *Letter to Dogwood Charter School - 2.25.2021.pdf*).

5. In March 2021, Dogwood attempted to appeal CVSD’s denial of Dogwood’s Initial Application to CAB; in its appeal, Dogwood expressly reserved the right to amend its appeal. (Official Notice⁸ of CAB Records (“CAB Records”); See also *Answer* at Exhibit B).

⁸ Rule 35.173 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.173, permits the agency head or presiding officer to take official notice 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. ...” The taking of official notice by administrative agencies has been sanctioned by appellate courts. *See e.g., Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A.2d 991 (Pa. Cmwlth. 1987), which stated that

"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 (emphasis added). *See also Gleeson v. State Bd. of Medicine*, 900 A.2d 430, 440 (Pa. Cmwlth. 2006), *appeal denied*, 917 A.2d 316 (Pa. 2007) (licensing board may take official notice of its own records).

6. Dogwood’s attempted appeal to CAB of the Initial Application was rejected by way of letter from the legal counsel for CAB dated April 9, 2021, due to the lack of the required court decree from the local court of common pleas and the determination that CAB did not have jurisdiction over the appeal of the Initial Application. (CAB Records; See also *Answer* at Exhibit B).

7. The rejection letter from CAB’s legal counsel acknowledged the right of Dogwood to amend its appeal. (CAB Records; See also *Answer* at Exhibit B).

8. On November 15, 2021, Dogwood filed its Revised Application for a charter school with CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf*).

9. The application filed by Dogwood on November 15, 2021, was entitled “Revised Charter Application for Dogwood Charter School.” (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf*).

10. The proposed school location of Dogwood’s charter school, as indicated in the Revised Application, is the location of a former parochial school located at 1734 Bower Hill Road, Pittsburgh, PA 15243 (still located within the School District). (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 154).

11. On December 20, 2021, the School District held a public hearing on the Revised Application, at which time representatives of Dogwood again appeared and presented testimony in support of the Revised Application. (School District USB at *Chartiers-Dogwood Charter School Hearing 12 20 2021.pdf*).

12. During the December 20, 2021, public hearing, the representatives of Dogwood referred to the matter under consideration by CVSD as being “resubmitted” and that it was a “revised application.” (School District USB at *Chartiers-Dogwood Charter School Hearing 12 20 2021.pdf* at 9, 10)

13. The first two (2) CVSD board meetings which occurred at least 45 days after Dogwood submitted its November 15, 2021, Revised Application were a January 11, 2022, Workshop/Special Action meeting, and a January 25, 2022, Regular Board Meeting. (*Petition* as 8-11, *Answer* at ¶ 8-11.).

14. CVSD did not vote on Dogwood’s Revised Application at either the January 11 or January 25, 2022, meetings. (*Petition* at ¶¶ 10-11, *CVSD Answer* at ¶¶ 10-11.).

15. The Petition and Initial Brief currently pending consideration before CAB were docketed by CAB on February 8, 2022. (Docket at CAB 2022-01).

16. On February 22, 2022, CVSD adopted a resolution purporting to deny Dogwood’s resubmitted application for substantially the same reasons which had caused CVSD to deny Dogwood’s Initial Application. (Compare School District

USB at *Letter to Dogwood Charter School - 2.25.2021.pdf* with School District USB at *Notice of Denial of Application for Charter School.pdf*).

17. Notice of CVSD's purported action was transmitted to Dogwood via letter dated March 3, 2022. (School District USB at *Notice of Denial of Application for Charter School.pdf*)

18. On March 3, 2022, CAB acknowledged receipt of the Petition and directed the School District to file an answer and to certify the record before the District to CAB. (Docket at CAB 2022-01).

19. On May 5, 2022, the hearing officer ordered that any motions to supplement the record in this matter were to be filed on or before June 3, 2022. (Docket at CAB 2022-01).

20. On June 3, 2022, Dogwood moved to supplement the record with 115 letters from parents, 'members of the community', 'local business owners', and elected officials supporting the creation of a Dogwood school in the Bethel Park School District. (Docket at CAB 2022-01 at Motion to Supplement the Record).

21. By way of Order dated July 5, 2022, Dogwood's Motion to Supplement the Record was denied because the letters of support gathered for creation of a Dogwood School in the Bethel Park School District were found to not be relevant to the pending matter involving creation of a Dogwood School in CVSD. (Docket at CAB 2022-01 at Order Denying Motion to Supplement the Record at fn 1).

22. On July 11, 2023, a hearing was held before CAB at which counsel for Dogwood and the School District made presentations and responded to questions from members of CAB. (CAB records at docket number CAB 2022-01). (CAB records at docket number CAB 2022-01, Notes of Transcript from July 11, 2023, CAB meeting).

23. On September 12, 2023, CAB voted unanimously to deny Dogwood's appeal. (CAB records at docket number CAB 2022-01, Notes of Transcript from September 12, 2023, CAB meeting at 7).

NATURE OF THE PROPOSED SCHOOL

24. Dogwood seeks to partner with and receive accreditation from the Charlotte Mason Institute and offer a curriculum based on the teachings and principles of Charlotte Mason and the relational education model. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 2, 19).

25. Dogwood initially plans to enroll 195 students in grades K-8, expanding over the following four (4) years to 295 students as grades 9-12 are added, one grade per year. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 2, 19, 132).

26. Dogwood places a premium on parental involvement and sets as objectives that 80% of parents will be willing to volunteer time and effort to school activities and projects and that at least 10 family members will be in attendance at every community event. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 25).

FOUNDING MEMBERS AND LEADERSHIP TEAM FOR THE PROPOSED SCHOOL

27. Dogwood has not determined a Board of Trustees for the proposed school in CVSD; it will be determined after a charter is approved. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 149).

28. Elizabeth Opat White (a.k.a. “Beth Opat”); Joanne White; Katherine White (a.k.a. “Katie White”); Rebekka Lang (a.k.a. “Rebecca Lang”); Terri Obringer; Jennie August; and Jeffery Vermeire (a.k.a. “Jeff Vermeire”) are each designated as a member of Dogwood’s Founding Planning Board in Dogwood’s Revised Application. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 149; *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf*.)

29. David Bliss, Sarah Vermeire, Amy Ericson, Michelle Bliss, Trinity Truair, Alfred Poolman, Kate Ulrick, and Brianna Lachman were also identified as founding team members of Dogwood when CVSD was considering Dogwood's Initial application. (School District USB at *Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf* at 40)

30. Beth Opat; Joanne White; Katie White; Rebekka Lang; Terri Obringer; Jennie August; Jeff Vermeire, and Karne Galilei are each designated as a member of Dogwood's Planning Board. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf*).

31. Tracy Born was the secretary of Dogwood's Planning team when CVSD was considering Dogwood's Initial application. (School District USB at *Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf* at 10).

LOCATION OF THE SCHOOL DISTRICT AND COMMUNITIES TO BE SERVED

32. CVSD provides public education to students residing in Scott and Collier Townships, and Bridgeville and Heidelberg Boroughs. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 132; School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix F (District Communications)\District Communications.pdf*; Official Notice of

Pennsylvania School Districts Map and Map of School Districts and Intermediate Units (collectively, the “school district maps”) available from Pennsylvania Department of Education website at <https://www.education.pa.gov/Pages/Education-Directory-and-Maps.aspx> (last visited September 24, 2023); <https://www.education.pa.gov/Documents/Data and Statistics/42 SD GEO Relationship A.xls> (last visited September 24, 2023).

33. To maximize enrollment opportunities, Dogwood intends to serve students of not only CVSD, but also surrounding communities. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 133)).

34. Dogwood specifically and intentionally selected a centralized location to be able to provide its relational educational model to students of both CVSD and surrounding communities. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 19).

35. Dogwood’s founding team member parents desire to create a school where their children will be able to attend. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 133).

36. Founding team member parents have children who attend, or would attend, schools in Bethel Park, Peters Township, Mt. Lebanon, Upper St. Clair, South Park, South Fayette, “Canonsburg” [sic Canon-McMillian], and Pittsburgh school districts. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 133; *Dogwood Reply Brief* at 3).

37. Apart from CVSD and the school districts in which founding team members live, Dogwood’s Revised Application does not specify other ‘surrounding communities’ which Dogwood seeks to serve. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021* passim.)

38. The school district boundaries of CVSD and Bethel Park School District are separated by the Upper St. Claire and Mt. Lebanon School Districts. (Official Notice of school district boundaries. See <https://www.education.pa.gov/Pages/Education-Directory-and-Maps.aspx> at link for Map of School Districts and Intermediate Units.)

39. The school district boundaries of CVSD and Bethel Park School District are separated only approximately two (2) miles apart at their closest point. (Official Notice of school district boundaries.⁹ See Google Maps at “Chartiers Valley School

⁹ Google Maps has been held to be something of which judicial notice may be taken as “a ‘source whose accuracy cannot reasonably be questioned,’ at least for the purpose of determining the general location of [a] home.” See *Cubano v. Sheehan*, 2016 PA Super 193, 146 A.3d 791 (Pa.

District, PA” and “Bethel Park School District, PA.” *See also* school district maps, <https://data.pa.gov/Geospatial-Data/Pennsylvania-School-Districts-Boundaries/s629-r52w>).

40. The school district boundaries of CVSD and Bethel Park School District are approximately 17 miles apart at the farthest point. (Official Notice of school district boundaries. *See* school district maps. *See* Google Maps at “Chartiers Valley School District, PA” and “Bethel Park School District, PA.” *See also* school district maps, <https://data.pa.gov/Geospatial-Data/Pennsylvania-School-Districts-Boundaries/s629-r52w>).

PURPORTED EVIDENCE OF COMMUNITY SUPPORT – DOGWOOD’S GOVERNING BODY

41. Dogwood has not selected a board of directors. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 141, 144, 149.)

42. Founding planning board member Beth Opat lists a residential address of Bethel Park, Pennsylvania; her home school district is in the Bethel Park School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 7; School

(Super. Ct. 2016), citing *United States v. Perea-Rey*, 680 F.3d 1179, 1182 n. 1 (9th Cir.2012). Pennsylvania appellate courts have also approved taking judicial notice through the use of Google maps of the distances between two relevant locations. *Id.* Address specific municipality and school district information is also available through the Pennsylvania Department of Community and Economic Development webpage at <http://munstats.pa.gov/Public/FindMunicipality.aspx>.

District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 16).

43. Founding planning board member Beth Opat lists an employment address in Venetia, Pennsylvania; her employment address would be consistent with working in the Peters Township School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 7; Official notice of school district boundaries applicable to employment location).

44. Founding planning board member Joanne S. White, LSW, lists a residential address of Upper St. Clair, Pennsylvania; her home school district would be consistent with living in the Upper St. Clair School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 11; Official notice of school district boundaries applicable to residence).

45. Founding planning board member Joanne S. White, LSW, is retired. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 7).

46. Founding planning board member Katherine White lists a residential address of Pittsburgh, Pennsylvania; her home school district would be consistent

with living in the Upper St. Claire School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 14; Official notice of school district boundaries applicable to residence).

47. Founding planning board member Katherine White lists an employment address in Pittsburgh, Pennsylvania; her employment address would be consistent with working in the Pittsburgh School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 14; Official notice of school district boundaries applicable to employment location).

48. Founding planning board member Rebekka Lang lists a residential address in Bethel Park, Pennsylvania; her home school district would be consistent with living in the Bethel Park School District. (*Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 6; Official notice of school district boundaries applicable to residence).

49. Founding planning board member Rebekka Lang did not provide an employment address in either the Initial or Revised Application. (School District USB, *passim*).

50. Founding planning board member Terri L. Obringer lists a residential address in Pittsburgh, Pennsylvania; her home school district would be consistent with living in the Baldwin-Whitehall School District. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 145 and School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 110).

51. Founding planning board member Terri L. Obringer did not provide an employment address in either the Initial or Revised Application. (School District USB, *passim*).

52. Founding planning board member Jennie Nichole August, ATR-BC, LPC indicated an address in Pittsburgh, Pennsylvania 15228; she lives in the Mt. Lebanon School District. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 4; School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 67; Official notice of school district boundaries applicable to residence).

53. Founding planning board member Jennie Nichole August, ATR-BC, LPC lists an employment address of Pittsburgh, Pennsylvania without a street address. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 4).

54. Founding planning board member Jeffrey Vermeire indicated an address in Carnegie, Pennsylvania; he lives within CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 9; Official notice of school district boundaries applicable to residence).

55. Founding planning board member Jennie Nichole August, ATR-BC, LPC lists an employment address of Pittsburgh, Pennsylvania without a street address. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 9; Official notice of school district boundaries applicable to employment location).

56. In addition to the Core Planning Team, an additional seven (7) individuals are listed as part of the Core Founding Team in Dogwood's Revised Application. (School District USB at *2021 Charter Application Dogwood CV.pdf* at 136).

57. Core Founding Team member Megan Hennessey resides in Peters Township School District (School District USB at *Char Valley Application Nov*

2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf at signature 110).

58. Core Founding Team member Megan Hennessey works at the same early learning facility as Beth Opat in Peters Township School District (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 136, 137; *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf* at 7.)

59. Core Founding Team member Sarah Chartier-Vermeire resides in CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 139).

60. Core Founding Team member Sarah Chartier-Vermeire did not provide an employment address in either the Initial or Revised Application. (School District USB, *passim*).

61. Core Founding Team member Amie Erickson resides in Bethel Park School District (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 50; Official notice of school district boundaries applicable to residence).

62. Core Founding Team member Amie Erickson indicated employment at Community College of Allegheny County. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 50).

63. The Community College of Allegheny County is located at 800 Allegheny Avenue, Pittsburgh; the address is consistent with being located in Pittsburgh School District. (Official Notice of Department's licensure records regarding Community College of Allegheny County; Official notice of school district boundaries applicable to employment location).

64. Core Founding Team member Elsbeth Pollman resides in Bethel Park School District School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 47).

65. Core Founding Team member Elsbeth Pollman did not provide an employment address in either the Initial or Revised Application. (School District USB, *passim*).

66. Core Founding Team member Trinity Truair resides in South Fayette School District. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at signature 151).

67. Core Founding Team member Trinity Truair is a stay-at-home mother. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 139).

68. No residential address information was provided in either the Initial or Revised Application for Core Founding Team members Andrew Pollman and Karen Galilei. (School District USB, *passim*).

69. Core Founding Team member Andrew Pollman did not provide an employment address in either the Initial or Revised Application. (School District USB, *passim*).

70. Core Founding Team member Karen Galilei is retired. (School District USB, *passim*).

PURPORTED EVIDENCE OF COMMUNITY SUPPORT – PUBLIC HEARINGS

71. Public hearings were held by the School District on December 22, 2020, February 9, 2021, and December 20, 2021, regarding Dogwood’s Initial Application and Dogwood’s Revised Application.

DECEMBER 22, 2020, HEARING

72. The following seventeen (17) individuals testified during the December 22, 2020, public hearing concerning Dogwood’s Initial Application for a charter:

- a. Jesse Bean
- b. Gary Betts
- c. Joseph Blattner

- d. Tracy Born
- e. Megan Hennessey
- f. Nicole Hutchinson
- g. Rebecca Lang
- h. Shemariah Little
- i. Melissa Manzo
- j. Emily Marko
- k. Terry Obringer
- l. Carrie O'Connell
- m. Beth Opat
- n. Michelle Sedlak
- o. Trinity Truair
- p. Jeffrey Vermeire
- q. Joanne White

(School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf, *passim*).

73. Of the seventeen (17) individuals who testified during the December 22, 2020, public hearing, seven (7) were identified in Dogwood's Application or during testimony as being a Dogwood founding member, officer, member of the leadership team, or consultant (Tracy Born, Megan Hennessey, Rebecca Lang, Beth Opat, Trinity Truair, Jeffrey Vermeire, and Joanne White). (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 12-54).

74. Nicole Hutchinson was a member of a Dogwood school founding team and acted as a consultant and the charter school's executive director when CVSD was considering Dogwood's Initial Application. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 13, 54).

75. Jesse Bean does not live in the community but acts as Dogwood’s business manager. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 52).

76. Jesse Bean’s firm, Charter Choices, contributed to the development of Dogwood’s budget and the narrative surrounding it. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 52-53).

77. Each of the nine (9) individuals identified as being associated with the founding of Dogwood in Findings of Fact (“F.F.”) 73 and 76 above testified in support of Dogwood being granted a charter at the December 22, 2020, public hearing. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 14-36, 40-41, 43-45, 52-54).

78. In addition to the nine (9) individuals referenced in F.F. 77 above, Melissa Manzo testified in favor of Dogwood being granted a charter at the December 22, 2020, public hearing. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 36-38).

79. Gary Betts applauded the effort to bring resources to the community but raised concerns during his testimony about whether granting Dogwood a charter

would enhance what was available within CVSD.¹⁰ (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 36-38).

80. Joseph Blattner testified against Dogwood due to the perceived diminishment of tax resources to CVSD. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 38-40).

81. Shemariah Little testified against Dogwood due to the perceived diminishment of tax resources to CVSD.¹¹ (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 45-46).

82. Emily Marko testified against Dogwood due to concerns about Dogwood's methodology, that a charter school which Dogwood wished to base itself off of had been placed on an improvement plan, and due to her concerns regarding her perception of the likely diversity/inclusion practices of Dogwood. (School District USB at *Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 50-52*).

83. Carrie O'Connell testified against Dogwood due to the perceived diminishment of tax resources to CVSD. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 46-48).

¹⁰ Mr. Betts also testified regarding the proposed facility to be utilized as the school building. Because Dogwood changed its proposed school facility location between the Initial Application and the Revised Application, that portion of the testimony has not been considered.

¹¹ Ms. Little also testified regarding the location of the proposed facility to be utilized as the school building. Because Dogwood changed its proposed school facility location between the Initial Application and the Revised Application, that portion of the testimony has not been considered.

84. Michelle Sedlak testified against Dogwood due to concerns that a charter school which utilized a similar teaching model was not a good model for CVSD students and that the perceived diminishment of tax resources to CVSD. (School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 46-48).

FEBRUARY 9, 2021, HEARING

85. The following nine (9) individuals testified during the February 9, 2021, public hearing concerning Dogwood’s Initial Application for a charter:

- a. Jeff Vermeire
- b. Trish Dempster
- c. Maya Vaughn
- d. Frank Brown
- e. Jen Heffley
- f. Ms. Ralston
- g. Thomas Majernik
- h. Lisa Radzanowski
- i. Dr. Johannah Vanatta

(School District USB at Chartiers-Dogwood Charter School Hearing 2 9 21, *passim*).

86. Of the nine (9) individuals who testified during the December 22, 2020, public hearing, one (1), Jeff Vermerie, was identified in Dogwood’s Application and during testimony as being a Dogwood founding member and in support of Dogwood. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 149; *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D*

(Core Planning Team)\Core Planning Team.pdf; School District USB at Chartiers-Dogwood Charter School Hearing 2 9 21 at 4).

87. One (1) person who testified during the February 9, 2021, hearing, Trish Dempster, did not indicate membership as a founder, consultant, or business partner of Dogwood, but expressed support for Dogwood's application. (School District USB at Chartiers-Dogwood Charter School Hearing 2 9 21 at 8-11).

88. Two (2) of the persons who testified during the February 9, 2021, hearing, Maya Vaughn and Lisa Radzanowski, did not clearly express support or opposition to Dogwood's application. (School District USB at Chartiers-Dogwood Charter School Hearing 2 9 21 at 11-13, 19-20).

89. Two (2) of the persons who testified during the February 9, 2021, hearing, Frank Brown and Ms. Ralston identified themselves as teachers in CVSD, but did not clearly express support or opposition to Dogwood's application. (School District USB at *Chartiers-Dogwood Charter School Hearing 2 9 21* at 13-18).

90. One (1) of the persons who testified during the February 9, 2021, hearing, Thomas Majernik, expressed concern or opposition to Dogwood's application due to the perceived diminishment of funding resources to CVSD. (School District USB at *Chartiers-Dogwood Charter School Hearing 2 9 21* at 18-19).

91. One (1) of the persons who testified during the February 9, 2021, hearing, Jen Heffley, identified herself as being a teacher in CVSD and expressed opposition

to Dogwood being granted a charter. (School District USB at *Chartiers-Dogwood Charter School Hearing 2 9 21 at 16-19*).

92. One (1) of the persons who testified during the February 9, 2021, hearing, Dr. Johannah Vanatta, identified herself as being the superintendent of CVSD and called into question whether Dogwood's charter school application demonstrated that Dogwood met all requirements under the CSL to be granted a charter. (School District USB at *Chartiers-Dogwood Charter School Hearing 2 9 21 at 22-58*).¹²

DECEMBER 20, 2021, HEARING

93. The following three (3) individuals testified during the December 20, 2021, public hearing concerning Dogwood's Revised Application for a charter:

- a. Beth Opat
- b. Rebekka Lang
- c. Jeff Vermeire

(School District USB at *Chartiers-Dogwood Charter School Hearing 12 20 2021.pdf*, at 8-26).

94. Each of the individuals who testified during the December 20, 2021, public hearing were previously identified in Dogwood's Application and/or during prior testimony as being a Dogwood founding member. (School District USB at

¹² The Notes of Testimony for the February 9, 2021, public hearing indicate that the following exhibits were provided by Superintendent Dr. Vanatta to the school solicitor for inclusion in record; however, they were not included in the certified record provided to CAB. Exhibit 1 - e-mails/letters from public; Exhibit 2 - letter from Pittsburgh Public School; Exhibit 3 - Township of Collier Resolution 011121-0 & advertisement; and Exhibit 4 - presentation slides. No weight was assigned to those exhibits.

Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 149; *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix D (Core Planning Team)\Core Planning Team.pdf*.; School District USB at Chartiers-Dogwood Charter School Hearing 12 22 2020.pdf at 12-14, 26-28, 31-34; School District USB at Chartiers-Dogwood Charter School Hearing 2 9 21 at 4-8).

95. Each of the individuals who testified during the December 20, 2021, public hearing had previously testified at one of the prior hearings regarding Dogwood's Charter, held on December 22, 2020, or February 9, 2021. (FF. 72, 85).

PURPORTED EVIDENCE OF COMMUNITY SUPPORT – BUSINESS AND PERSONAL LETTERS

96. Dogwood submitted nine (9) personal/business letters of support with its Revised Application. (School District USB at: *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/1-Business and Personal Letters.pdf*).

97. The first business/organizational/personal letter of support included with Dogwood's Revised Application was authored by Leah Boden, an individual with an address in Coventry, England. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/1-Business and Personal Letters.pdf* at 1).

98. Two (2) business/organizational/personal letters of support included with Dogwood’s Revised Application (authored by Maureen Anderson, Ed.D. on behalf of RefocusED, Inc. and Evan Addams on behalf of Richbarn Roasters) do not include a physical address for the author’s residence or business location (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/1-Business and Personal Letters.pdf* at 2, 7).

99. Of the remaining six (6) business/organizational/personal letters of support, none indicate an address which is located within CVSD (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/1-Business and Personal Letters.pdf*, 3-6,10; Official notice of school district boundaries applicable to business location).

100. Only four (4) of the business/organizational/personal letters of support were addressed to CVSD or otherwise referenced creation of a Dogwood School specifically in CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/1-Business and Personal Letters.pdf* at 1, 2, 9, 10).

101. One supporter, Antonio’s Pizzeria, offered to allow Dogwood to have an informational table for community members. (School District USB at *Char*

Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 142.)

102. Dogwood's application indicates that the law offices of Barton Gilman LLP, Philadelphia, Patricia Hennessey, Esquire, offered her services free of charge. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf* at 142.)

103. Dogwood did not submit any letters of support from local or state officials with its Initial or Revised Application. (School District USB, *passim*).

PURPORTED EVIDENCE OF COMMUNITY SUPPORT – FORM LETTERS OF SUPPORT

104. Dogwood submitted, with its Revised Application, a total of 166¹³ unique form letters of support which represented support to create a Dogwood school in either the 2021-2022 or 2022-2023 school years. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/ 2-LettersofintentandsupportCV.pdf*).

105. The form letters of support were generated utilizing pre-printed forms with several check boxes and blanks to note addresses, information about children and students, etc. (School District USB at *Char Valley Application Nov 2021*

¹³ An individual identified as Kelly Halbrock submitted two (2) form letters of support. (See School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 62 & 66).

(1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf, passim).

106. Dogwood utilized two versions of the pre-printed form letters of support, one entitled “Letter of Support,” and one entitled “Letter of Support CV.” (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf*. Compare pg. 1 with pg. 2).

107. One (1) individual who submitted a form letter of support did not provide a municipality in her address but indicated a zip code of 17744.¹⁴ (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 119; Official Notice of location of 17744 zip code).

108. An additional twenty-four (24) form letters of support were provided by individuals who did not provide a municipality or zip code with their street address, preventing any ability to determine the relevant school district of residence. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-*

¹⁴ A summary of the information provided via the form letters of support, along with the school district consistent with the address provided, has been included as Appendix A to this Opinion and Order, and is available upon request.

LettersofintentandsupportCV.pdf at 7, 12, 25, 31, 67, 80, 86, 92, 97, 102, 107, 110, 115, 125, 129, 131, 142, 148, 151, 155, 158, 161, 162).

109. An additional one (1) form letter of support was provided by an individual who provided a street address but no municipality; the zip code provided is consistent with an address in Keystone Oaks School District. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 131. Official Notice of location of 15216 zip code; Official notice of school district boundaries applicable to address).

110. Only twenty-two (22) of the 166 form letters of support (13.3%) indicated an address consistent with being within CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 2, 5, 9, 16, 20, 32, 35, 47, 58, 62, 74, 88, 96, 111, 121, 127, 130, 133, 134, 137, 147, 163; Official notice of school district boundaries applicable to business location).

111. Of the above CVSD subtotal of form letters of support, only sixteen (16) individuals (representing 17 K-12 aged students) indicated an intent to enroll children at Dogwood. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 9, 16, 20, 32, 35, 47, 62, 74, 88, 96, 111, 121,

133, 137; Official notice of school district boundaries applicable to business location).

112. Only 34.9% (58) of the form letters of support clearly indicated that the signer supported a Dogwood School in CVSD; the remainder either were not asked to specify or did not mark the box agreeing that their support was related to a school in CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf*, passim).

113. Of the above sub-group who clearly indicated that the signer supported a Dogwood School specifically in CVSD, only six (6) individuals (representing two (2) K-12 aged students) actually live within CVSD and intend to enroll their child(ren) at Dogwood. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* at 32 & 74).

114. Almost the same number of persons living in Bethel Park School District (20) provided form letters of support for CVSD to grant a charter to Dogwood as those living in CVSD (22). School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* compare at 2, 5, 9, 16, 20,

32, 35, 47, 58, 62, 74, 88, 96, 111, 121, 127, 130, 133, 134, 137, 147, 163 with at 4, 8, 22, 23, 36, 43, 46, 50, 51, 63, 85, 90, 95, 108, 117, 118, 156, 167, 164, 167.

PURPORTED EVIDENCE OF COMMUNITY SUPPORT – ELECTRONIC SIGNATURES OF SUPPORT

115. Dogwood also submitted, with its Revised Application, a report compiling information gathered from 156 persons who provided an electronic signature of support (the “electronic signatures of support”). (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

116. The report compiling the electronic signatures of support does not specify that the individuals who provided their support were advised that the Dogwood or “Charlotte Mason” school would be located in CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

117. An individual identified as Miranda Wayne submitted two (2) electronic signatures of support. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/ 3-ElectronicSignaturesofSupport.pdf* at signatures 121 and 122).

118. Of the remaining electronic signatures of support, 40 had also/ previously provided form letters of support, thereby reducing the total number of unique electronic signatures to 115. (Compare School District USB at *Char Valley*

Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf with School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

119. Only eight (8) total individuals who provided an electronic signature of support self-reported their school district as being CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at Amanda Sooata, Bethany Ward, Jeffrey Vermeire, Kelly Halbrock, Leah Hathaway, Rachael Schwartzmiller, Regina Munguia, and Sarah Charlier-Vermeire).

120. Of the eight (8) total individuals who provided an electronic signature of support and indicated residing in CVSD, as referenced in Finding of Fact 119 above, five (5) had also/previously provided letters of support, reducing the number of unique CVSD individuals indicating support by electronic signature to three (3) individuals. (Compare School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* with School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at Amanda Sooata, Kelly Halbrock, Leah Hathaway, Jeffrey Vermeire, and Sarah Charlier-Vermeire).

121. Only 2.6% (3) of the 115 unique signers of the electronic signatures of support reside in CVSD. (Compare School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* with School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

122. Only one (1) of the unique signers of the electronic signatures of support residing in CVSD both had K-12 aged children (2 children) and also indicated a firm intent to register their child at a “Charlotte Mason charter school.” (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf* at Rachael Schwartzmiller).

123. Twenty-six (26) additional individuals who reside outside CVSD provided an electronic signature of support (representing 44 K-12 aged children) and indicated a firm intent to send one or more child(ren) to a “Charlotte Mason charter school.” (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf, passim*).

124. Thirty-seven (37) individuals provided some form of response to an inquiry whether the signed wished to become “involved with the planning of a

Charlotte Mason School charter school,” on the electronic signature of support form. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*, passim).

125. Of the subtotal referenced in F.F. 124, only three (3) individuals self-identified as living in CVSD and were not already associated with Dogwood as a Founding Planning Board member. (Compare School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*, passim and at signatures 18, 129, 133).

POTENTIAL ENROLLMENT

126. One hundred thirty-five (135) total unique individuals (representing 172 K-12 aged children) indicated an intent to register a child at a Dogwood/Charlotte Mason school. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* and *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

127. Of the 135 unique individuals who indicated an intent to register a child at a Dogwood/Charlotte Mason school, only 17 individuals (representing 19 K-12

aged children) live within CVSD. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf* and *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf*).

PROPOSED BUDGET

128. Dogwood's sources of income listed in its Revised Application are limited to the following: Local per pupil funding (both regular and special education), state facilities grants, Federal Title I & II, Lunch Program, and IDEA pass-through. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix C (Preliminary Operating Budget and 5 Year Plan)*).

129. Dogwood's Revised Application does not identify any additional sources of start-up funding, supplemental funding, or lines of credit. (School District USB at *Char Valley Application Nov 2021 (1).zip*, passim).

130. Dogwood has budgeted \$1,965,360 for personnel costs for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 5).

131. Dogwood has budgeted \$366,429 for its building rental costs for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 6).

132. Dogwood has budgeted \$53,000 for its cleaning costs for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 6).

133. Dogwood has budgeted \$31,800 for its utility costs for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 6).

134. Dogwood has budgeted \$21,200 for its security costs for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 6).

135. Dogwood has budgeted \$31,800 for all repairs and maintenance for the first year of operation. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 6).

136. Dogwood has not included in its budget any capital or upgrade expenses for its proposed building location. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pd*, passim).

137. Dogwood’s Revised Application projected a balance surplus of \$51,217 at the end of year 1. (School District USB at *Char Valley Application Nov 2021 (1).zip\Appendix C (Preliminary Operating Budget and 5 Year Plan)\Appendix C (Preliminary Operating Budget and 5 Year Plan).pdf* at 2).

CURRICULA

138. Pennsylvania Common Core Standard (“PACC Standard”) CC.1.4.1.B for 1st grade students requires that student “[i]dentify and write about one specific topic.” (Official Notice of PACC Standards; School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix L (PA Academic Standards and Curriculum Correlations)\1a-ELA Curriculum Map K-6 2015.xlsx* at Table 1st Grade (Form 1B) at cell G26).

139. In Dogwood’s Revised Application, Dogwood’s strategy to comply with PACC Standard CC.1.4.1B. is “[o]ral narration of nonfiction books; dictate to an adult and/or draw pictures to illustrate understanding.” (Emphasis added) (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix L (PA Academic Standards and Curriculum Correlations)\1a-*

ELA Curriculum Map K-6 2015.xlsx at Table 1st Grade (Form 1B) at cells G26 and H26. See also cell A26).

140. PACC standard CC.1.4.1.X requires 3rd grade students to “[w]rite routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.” (Official Notice of PACC Standards; School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix L (PA Academic Standards and Curriculum Correlations)\1a-ELA Curriculum Map K-6 2015.xlsx* at Table 3rd Grade (Form 1A) at cells E27, F27. See also cell A28).

141. In Dogwood’s Revised Application, Dogwood’s strategy to comply with PACC Standard CC.1.4.1B. is to “[o]ffer time and space to write as the child desires. Begin to have students write a part and tell a part, being sure to cite evidences from texts.” (Emphasis added). (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix L (PA Academic Standards and Curriculum Correlations)\1a-ELA Curriculum Map K-6 2015.xlsx* at Table 3rd Grade (Form 1A) at cells E27, F27. See also cell A28).

142. In Dogwood’s Revised Application, Dogwood included a sample Year Three examination in which it is indicated that the examination was “[n]arrated by student; [s]cribed by an [a]dult.” (School District USB at *Char Valley Application*

Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 16).

CONTINUUM OF SERVICES TO MEET THE NEEDS OF STUDENTS WITH DISABILITIES INCLUDING FACILITY ADA COMPLIANCE

143. The floor plans for the school facility, submitted with Dogwood's Revised Application, indicate that the facility is a multi-story building. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix H (Facility)\Facility.pdf* at 4, 6, 8, 10-12).

144. The floor plans for the school facility, submitted with Dogwood's Revised Application, indicate the upper floors are accessible solely by switch-back or central-open-shaft staircases which are approximately 3'-4' wide in each direction. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix H (Facility)\Facility.pdf* at 4, 6, 8, 10-12).

145. The floor plans for the school facility, submitted with Dogwood's Revised Application, do not otherwise disclose the existence of any elevators/stair lifts. (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix H (Facility)\Facility.pdf* at 4, 6, 8, 10-12).

146. The floor plans for the school facility, submitted with Dogwood's Revised Application, do not otherwise disclose the existence of wheelchair accessible restroom facilities throughout the building. (School District USB at *Char*

Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix H (Facility)\Facility.pdf at 4, 6, 8, 10-12).

147. The Letter of Intent to Lease, submitted with Dogwood’s Revised Application, indicates that Dogwood is responsible to pay for improvements at its own cost and expense per a mutually agreed plan. (School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix H (Facility)\Facility.pdf at 1).

148. Dogwood’s Revised Application does not claim that its selected school facility is ADA compliant, only that it “anticipates” the building will comply with all Federal, state, and local laws, including ADA compliance. (School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 156).

**ADMISSIONS POLICY AND CRITERIA FOR EVALUATING THE
ADMISSION OF STUDENTS IN ACCORDANCE WITH LAW (SECTIONS
1717-A(E)(2) AND 1719(6))**

149. Dogwood’s Enrollment Policy provides, in part, that admission to the school is open to all eligible students who reside in the Commonwealth of Pennsylvania, with certain preferences. (School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix I (Other Required Forms)\4-DCS Enrollment Policy.pdf at 1).

150. The enrollment policy also states that “[s]election of students for admission to Dogwood [] is done by lottery....Those not selected are placed on a waiting list.” (School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix I (Other Required Forms)\4-DCS Enrollment Policy.pdf* at 2).

151. Dogwood’s enrollment preference list indicates that preference will be given to:

- a. student residents of CVSD
- b. current Dogwood Students
- c. students who are children of those who actively participate in the development of the Charter School including members of the Founding Coalition, the Board of Trustees and employees of DCS
- d. siblings of current DCS students
- e. students residing outside the authorizing school district who are residents of the Commonwealth of Pennsylvania.

(School District USB at *Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\Appendix I (Other Required Forms)\4-DCS Enrollment Policy.pdf* at 3).

152. Dogwood’s Revised Application states that if an opening occurs:

*Dogwood will contact the family of the next student on the waiting list. When openings occur, wait-listed families are notified, in accordance with their “ranking,” and are given the opportunity to accept the space. **Siblings of enrolled students will be given preference over other names on the wait-list.***

(Emphasis added) (School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 162).

153. Dogwood’s Revised Application states, in part, the following regarding documentation to be submitted with a student application:

Parents or guardians must complete a student application (both paper and web-based versions will be available) by the established deadline and supply the documentation listed below in order to be eligible for admission. Where necessary, the Dogwood staff will provide information so that parents can obtain student records from their present schools. These items – while not conditions of enrollment – will ensure a smooth enrollment process:

- *Birth certificate or other official documentation proving birth date*
- *Student Social Security Number*
- *Copy of existing I.E.P., NOREP and supporting documentation, if applicable*
- *Prior school records including academic, standardized test scores, attendance information*
- *Family “proof of residency” in the local district*
- *Act 26 Violations*

(School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021\2021 Charter Application Dogwood CV.pdf at 161).

CHARTER GRANTED TO DOGWOOD IN BETHEL PARK SCHOOL DISTRICT

154. On July 11, 2023, CAB voted to grant a charter to Dogwood for the creation of a charter school within the Bethel Park School District. (Official Notice of CAB *Opinion* at *Dogwood Charter School v. Bethel Park School District*, CAB Docket Number 2022-03; Notes of Transcript from July 11, 2023, CAB meeting at 9-10).

CONCLUSIONS OF LAW

1. CAB has jurisdiction over the instant appeal. (Findings of Fact (“F.F.” 1-15, 18; 24 P.S. § 17-1717-A(f-g, i)).

2. Dogwood has been provided with the requisite notice and an opportunity to be heard regarding its applications and appeal as required by due process and the Section 504 of the Administrative Agency Law¹⁵ (the “AAL”), 2 Pa. C.S. § 504. (F.F. 1-23).

3. A charter school application is first submitted for consideration to the local board of school directors for the school district in which the charter school is proposed to be located. (24 P.S. § 17-1717-A(c)).

4. If a local board of school directors timely denies a charter application, as a condition precedent to the filing of an appeal with CAB, the disappointed charter school must petition the local court of common pleas and demonstrate that it has obtained a minimum number of qualifying signatures within 60 days of the denial of the application; a hearing on the sufficiency of the petition must be held by the local court of common pleas, and the local court of common plea must issue a decree establishing the sufficiency or insufficiency of the petition. (24 P.S. § 17-1717-A(i)(2, 3, 5)).

¹⁵ 2 Pa. C.S. §§ 501-508, 701-704

5. CAB did not obtain jurisdiction over the March 2021 attempted appeal of Dogwood's Initial Application denial because Dogwood failed to obtain the necessary decree from the local court of common pleas to perfect its appeal to CAB. (F.F. 1, 3- 6; Conclusion of Law 4).

6. The CSL provides charter school applicants with the option to appeal the denial of a charter school application to CAB, or the applicant may revise and resubmit the charter school application to the local board of school directors. (24 P.S. § 17-1717-A(f)).

7. A local board of school directors is required to consider a revised and resubmitted charter application at the first board meeting occurring at least forty-five (45) days after receipt of the revised application by the local board of school directors. (24 P.S. § 17-1717-A(f)).

8. The application submitted to CVSD on or about November 15, 2021, was a revised charter school application. (F.F. 8-9, 12).

9. CVSD failed to consider Dogwood's Revised Application at the first board meeting occurring at least forty-five (45) days after receipt of the Revised Application by the CVSD board. (F.F. 8, 12, 14).

10. Because CVSD did not timely consider Dogwood's Revised Application, CVSD's February 22, 2022, resolution purporting to deny Dogwood's Revised

Application is a nullity. (F.F. 16-17, Sch. Dist. of Philadelphia v. Indep. Charter Sch., 774 A.2d 798, 803 at fn. 14. (Pa.Cmwlt. 2001)).

11. Because CVSD did not issue a valid determination regarding Dogwood's Revised Application, Dogwood may appeal directly to CAB without going through the process of obtaining the minimum number of CVSD residents' signatures and obtaining a decree from the local court of common pleas. (24 P.S. § 17-1717-A(g) “).

12. Because CVSD did not issue a valid determination regarding Dogwood's Revised Application, Dogwood may appeal directly to CAB. CAB is required to make a decision to grant or deny Dogwood a charter based on the criteria established in 24 P.S. § 17-1717-A(e)(2). (F.F.9; 24 Pa.C.S. § 17-1717-A(g)).

13. 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)).

14. 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)).

15. Dogwood has failed to demonstrate sustainable support for its charter school plan as required by Section 1717-A(e)(2)(i) and Section 1719-A(6) of the Act, 24 P.S. §§ 17-1717-A(e)(2)(i) & 17-1719-(A)(6). (F.F. 27-127).

16. Dogwood has failed to demonstrate that its curricula fully meet the Pennsylvania Common Core Standards as required by Section 1702-A(1) of the Act, 24 P.S. § 17-1702-A(1). (F.F. 138-142).

17. Dogwood has failed to demonstrate that it can provide a continuum of services to students with certain physical disabilities as required by Section 1717-A(e)(2)(ii) and 1719-A(11) of the Act, 24 P.S. § 17-1717-A(e)(2)(ii) & 17-1719-A(11). (F.F. 143-148).

18. Dogwood has failed to demonstrate that its budget will allow it to provide a comprehensive learning experience for students as required by Section 1717-A(e)(2)(ii) of the Act, 24 P.S. § 17-1717-A(e)(2)(ii).

19. Students who reside in the School District are required to be given first preference for enrollment. (24 P.S. § 17-1723-A(a)).

20. Dogwood has failed to demonstrate that it has an appropriate admissions policy as required by Sections 1717-A(e)(2), 1719-A(6) and 1723-A; 24 P.S. §§ 17-1717-A(e)(2), 17-1719-A(6) and 17-1723-A. (F.F. 149-153).

21. In that Dogwood's Revised Application has failed to demonstrate that it has met or exceeded the requirements of 24 P.S. §17-1717-A(e)(2), Dogwood's Revised Application for a charter to establish a school within CVDS is DENIED. (Conclusions of Law 15-19).

DISCUSSION

I. DUE PROCESS

Prior to reaching the merits of this matter, CAB must assure itself that the proceedings regarding Dogwood’s Revised Application occurred in accordance with the requirements of the Administrative Agency Law, 2 Pa. C.S. §§ 501-508, 701-704. An adjudication of a Commonwealth agency is valid only as to those parties who have “been afforded reasonable notice of a hearing and an opportunity to be heard.” 2 Pa.C.S. § 504. Adequate notice of administrative action is notice that is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Clark v. Commonwealth, Dep’t. of Pub. Welfare*, 427 A.2d 712 (Pa. Cmwlth. 1981).

Dogwood was provided with the opportunity to file its Initial and Revised Applications with CVSD, and its representatives and supporters were permitted to appear before the local school board and provide testimony in support of the applications on three (3) occasions. (F.F. 1-12). Dogwood was advised of potential deficiencies in its application. (F.F. 3-4, 16, 17). Dogwood has been permitted to file appeals and briefs before CAB, to petition CAB to include supplemental information in the record for consideration, and was given the opportunity to present oral argument before CAB on July 11, 2023. (F.F. 15, 18-22). Under these circumstances, it is clear that Dogwood has received the necessary notice and

opportunity to be heard to satisfy both the general concepts of due process, as well as the requirements of the AAL.

II. NATURE OF MATTER ON APPEAL AND PRELIMINARY JURISDICTIONAL QUESTIONS

Dogwood submitted two (2) applications to CVSD to operate a charter school within the geographic boundaries of CVSD. The first application was submitted on November 13, 2020. After holding two (2) public hearings on Dogwood’s Initial Application, CVSD passed a resolution on February 23, 2021, denying Dogwood’s Initial Application. Dogwood attempted to appeal that denial to CAB; however, its appeal was rejected because Dogwood failed to obtain the necessary decree from the local court of common pleas confirming that Dogwood had obtained the minimum signatures of school district residents in order to perfect its appeal with CAB.

Section 1717A(f) of the CSL, 24 P.S. § 17-1717A(f), provides that “[a]t the **option of the charter school applicant**, a denied application may be revised and resubmitted to the local board of school directors. ...” (Emphasis added). Consequently, the General Assembly provided charter schools with two (2) options upon the denial of a charter school application. At the charter school’s option, it could attempt to remedy the infirmities with its application and resubmit for consideration by the same school district which had already found flaws with its initial application (See e.g., West Chester Area School District v. Collegium Charter School, 760 A.2d 452, 461 (Pa.Cmwlt. 2000)). Alternatively, a charter school

applicant may elect to go through a potentially more time consuming and potentially expensive appeal of the application denial before CAB. (See e.g., Sch. Dist. of Philadelphia v. Indep. Charter Sch., 774 A.2d 798 (Pa.Cmwlth. 2001)).

CVSD has asserted in its briefs that because Dogwood reserved the right to amend its appeal of the Initial Application, the application submitted to CVSD on November 15, 2021, must be a new, initial application and therefore CVSD had 75 days to consider the application under Section 1717-A(e)(1) of the CSL, 24 P.S. § 17-1717-A(e)(1). Had Dogwood successfully filed its appeal of the denial of its Initial Application to CAB in 2021, CVSD would have then lost jurisdiction over consideration of the Initial Application. Indep. Charter Sch., 774 A.2d at 803, fn 14. In such a case, CVSD's position that any subsequent application submitted to the school board for consideration would need to be a new application would likely be supported. However, CVSD's argument fails to properly consider the CSL and the April 9, 2021, rejection letter from CAB's Board Counsel which noted that:

*The instant Petition to Appeal [submitted by Dogwood] is **not accepted by CAB at this time** because it does not include the requisite [Court of Common Pleas] decree for transmission to CAB....[Dogwood] is not yet eligible to appeal the denial of its charter application by the District to CAB. Therefore, although the instant Petition to Appeal was submitted to CAB, **CAB is without jurisdiction over the Petition**...(emphasis added).*

(F.F. 6). Because Dogwood's attempted filing of the 2021 appeal was not perfected and was rejected by CAB (as compared to the appeal being accepted and then the

appeal being denied), jurisdiction over the application never transferred from CVSD to CAB. Instead, CVSD maintained jurisdiction over the Initial Application and any revision to it.

Similarly, the rejection of jurisdiction over the appeal by CAB due to the missing court decree places Dogwood in the same position, and with the same options, it had available to it the day before it attempted to file the errant appeal with CAB. Dogwood could have chosen to revise its Initial Application and resubmit to CVSD, or Dogwood could have attempted to go through the necessary steps to obtain the requisite signatures, obtain the necessary court of common pleas decree, and properly refile the appeal of the denial with CAB (or, alternatively, it could have decided to no longer pursue a school charter in CVSD). Dogwood elected to revise the application and resubmit to the School District for reconsideration, as was its right under the CSL.

CVSD's argument in its brief that it could, and should, treat the *Revised Application* as a new/original application also ignores information known or readily available to the School District. The November 2021 Revised Application was filed almost eight (8) months after CAB rejected Dogwood's attempted filing of the appeal concerning the Initial Application. (Compare F.F. 6 with F.F. 8-9). In order for a charter school to successfully appeal the denial of an application to CAB, it must petition the local court of common pleas and demonstrate that it has obtained

a minimum number of signatures within 60 days of the denial of the application; a hearing on the sufficiency of the petition must be held by the local court of common pleas, and the school district and charter school are to be provided 7 days' notice of the court hearing. *See* section 1717-A(i)(2, 3, 5), 24 P.S. § 1717-A(i)(2, 3, 5). The passage of well in excess of 60 days after the February 23, 2021, resolution denying the Initial Application by CVSD, combined with a lack of any notice of a court hearing on any gathered signatures should have reasonably alerted CVSD that, in all likelihood, Dogwood's appeal of the Initial Application to CAB was foreclosed because Dogwood would never be able to satisfy the signature/deed requirement set forth in the CSL.

Further, the application submitted to CVSD in November 2021 was clearly entitled a “**Revised** Charter Application for Dogwood Charter School.” (F.F. 9). The witnesses for Dogwood who testified at the December 20, 2021, hearing before CVSD also expressed that what the board had in front of it was a resubmitted revised application. For example, Beth Opat, one of the founders of Dogwood, stated during her testimony that “...once the application was denied, we resubmitted this year.” (F.F. 12) Shortly afterward, Rebecca Lang also testified on behalf of Dogwood and indicated “[...]o we have had a resubmission. ... It contains, along with our revised application and supporting documents, an 86-page document that addresses all the deficits that [CVSD] directly cited when our application was denied last school

year.” (F.F. 12). Consequently, CVSD was clearly put on notice by the circumstances, the title of the application under consideration, and the testimony of Dogwood’s representatives, that what was before CVSD in late 2021 and early 2022 was a revised application – not a new application.

The procedural issue presented in this matter is similar to what occurred in Choices of William Penn Charter School v. William Penn School District, CAB Docket No. 2014-07. In that case, Choices of William Penn Charter School (“Choices”) filed an application which was denied by the local school board. A year later, Choices filed a second application which was also denied. Choices then filed a revised application and appealed to CAB after the local school board failed to act at the first meeting 45 days after the revised application was submitted. The local school board filed a motion to quash, which was denied by CAB because “the Charter School Law does not contain a time limit for the filing of a resubmitted application; and (2) the District failed to act within the time period in the CSL for action on a resubmitted application.” *Id.* at 2.

In response, the William Penn School District sought to have CAB amend its order to permit an interlocutory appeal to the Commonwealth Court by arguing that CAB’s order involved a controlling question of law for which there was “substantial ground for a difference of opinion.” CAB refused and noted that (like the instant matter), the resubmission was clearly designated as such. CAB Docket No. 2014-

07 at *Decision on Motion to Amend*, pages 3-4. CAB further noted that a charter school applicant is under no duty to advise a school district as to its own statutory deadlines. *Id.* at *Decision on Motion to Quash*, page 4.

This matter is no different than what faced CAB in *Choices*; what CVSD had before it in late 2021 and early 2022 was a revised application from Dogwood, and CVSD was obligated to consider the revised application at the first meeting it held 45 days after the revised application was submitted. That 45-day period ended on December 30, 2021. CVSD did not vote on Dogwood’s November 2021 application at either the January 11, 2022, or January 25, 2022, meetings – the first two (2) public meetings which occurred at least 45 days after Dogwood submitted its revised application.¹⁶ Under such circumstances, the CSL permits a charter school to appeal directly to CAB without having to gather signatures/obtain a court decree. Therefore, because CVSD did not comply with the time period set forth in the CSL, CVSD lost jurisdiction to issue any decision regarding the Revised Application. Under appellate rulings, CVSD’s untimely February 22, 2022, resolution purporting to deny the application (F.F. 16) must be considered null and void. *See Independence Charter*, 74 A.2d at 803, fn 14.

¹⁶ Dogwood has noted that it is not clear whether the first meeting, scheduled as a Workshop/Special Action meeting, satisfied the requirements for a public meeting at which CVSD was obligated to consider Dogwood’s Revised Application. In that CVSD also did not consider the Revised Application at a subsequent regular public board meeting, CAB need not determine whether a Workshop/Special Action meeting constitutes a public meeting as contemplated by the CSL.

CVSD also argues that even if the November 2021 application submitted by Dogwood was properly treated as a revised application and that CVSD did not take action in the necessary time frame, CAB still does not have jurisdiction over the current matter because Dogwood again failed to obtain the necessary court decree. CVSD’s argument does not appear to be correct.

The CSL provides that a charter school applicant seeking to “appeal the **denial** of a charter by the local” school district must obtain “the signatures of at least two per centum 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.” *See* section 1717-A(i)(2), 24 P.S. § 17-1717-A(i)(2) (emphasis added). However, section 1717-A(i)(2) does not apply in this matter.

CVSD did not deny Dogwood’s revised/resubmitted application. On the contrary, CVSD neither approved nor disapproved the Revised Application within the statutory deadline – it failed to act. In contrast to a denial, when a school district fails to act in a timely manner the CSL provides, in part, that the failure of the school board to:

grant or deny the application for a charter school within the time periods specified [] shall permit the applicant for a charter to file its application as an appeal to [CAB]. In such case, [CAB] shall review the application and make a decision to grant or deny a charter based on the criteria established in subsection (e)(2).

See section 1717-A(g), 24 P.S. § 17-1717-A(g) (emphasis added). Comparing the texts of section 1717-A(g) with section 1717-A(i) demonstrates that there is no ‘gathering signature and court decree’ requirement when a school district misses the statutory deadline to vote on an application – the delay on the part of the school district results in the authorization of a direct appeal to CAB.¹⁷

In summary, the November 2021 Application submitted by Dogwood to CVSD is best determined to be a revised application. Because CVSD did not act on Dogwood’s Revised Application within the timeframe set forth in the CSL, the School District lost jurisdiction to make any decision regarding the Revised Application, and its purported denial must be viewed by CAB as being null and void. Pursuant to the CSL, Dogwood properly appealed directly to CAB for a decision

¹⁷One can understand that the General Assembly would want to discourage frivolous appeals to CAB by a disappointed charter school after a school district has evaluated and reached an affirmative decision to deny a charter school application. In those circumstances there has been an actual determination made by the elected representatives of the residents of the school district that the charter school application is deficient. Setting in place an additional procedural hurdle which requires a charter school to quickly gather signatures showing that there is more than negligible support for creation of the charter school in that community would serve to discourage what otherwise might be frivolous appeals to CAB by charter applicants which do not enjoy more than negligible support in the community.

Conversely, one can also imagine that the General Assembly might have thought it wise to relieve a charter school of the additional procedural hurdles of gathering signatures and appearing before the local court of common pleas under circumstances where the school board simply neglected (or intentionally failed) to make a decision within the statutorily imposed time frame. In that case, there was no vote by the elected school board members putting on record the denial of the application and the reasons for the denial, and there would follow no presumption that the application was, in fact, deficient. The statutory procedural differences provide the charter school with a means of ensuring that the school district will make a timely decision, lest the local school district lose its authority to make any decision at all.

without the need to gather a minimum number of signatures and obtain a decree from the local court of common pleas.

AUTHORITY OF CAB UNDER THE CSL

In its appeal to CAB, Dogwood asserts that CAB should “issue a decree and order: (1) granting the instant appeal; (2) granting the Revised Charter Application, and; (3) ordering [CVSD] to sign a charter for Dogwood [].” See *Dogwood’s Petition* at the prayer for relief. Dogwood’s *Petition* did not specifically assert that CAB should evaluate the application on its own, evaluate the application against CVSD’s purported resolution denying the application issued after the present appeal was filed, or whether CAB should merely order CVSD to grant the charter without review of any records. In CVSD’s *Brief*, CVSD asserted that if the November 2021 Application is determined to be a revised application, then CAB is required to conduct an independent review of Dogwood’s application under the criteria set forth in section 1717-A(e)(2). (*CVSD’s Brief* at 10, Standard of Review)

While the School District missed its deadline to act on the resubmitted application, that does not result in Dogwood’s Revised Application being deemed approved. *Indep. Charter Sch.*, 774 A.2d at 803. Instead, when a school district fails to act in a timely manner, CAB must step into the shoes of the local school district and make its own independent determinations. This contrasts with the usual procedure on appeal where CAB has the benefit of the local school district’s

knowledge and can agree or disagree with the local school board’s decision whether the application complied with the CSL. (See section 1717-A(g), 24 P.S. § 17-1717-A(g), providing that if the school district fails to act, the charter school may appeal to CAB and CAB is to “review the application and make a decision to grant or deny a charter based on the criteria established in subsection (e)(2).” See also *Independence Charter*, 774 A.2d 798).

CONSIDERATION OF THE MERITS

GOALS OF THE CHARTER SCHOOL LAW

The General Assembly enacted the CSL to foster the following stated 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).

EVALUATION CRITERIA

The CSL further mandates that “[a] charter school Application submitted under the [CSL] shall be evaluated ... 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.
5. (24 P.S. §17-1717-A(e)(2)).

Finally, the CSL requires that charter school applications address each of 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).

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). An applicant for an authorization to engage in an activity regulated by the Commonwealth bears the burden of proving eligibility for that authorization. *See e.g., Barran v State Bd of Medicine* 670 A2d 765 (Pa Cmwlth 1996).

DOGWOOD HAS FAILED TO MEET ITS BURDEN OF SHOWING SUSTAINABLE SUPPORT FOR A CHARTER SCHOOL IN CVSD (SECTIONS 1717-A(E)(2)(I) AND 1719(8))

Dogwood asserts in its brief that the Revised Application contains 146 student pre-enrollments, a survey of 145 people indicating they would consider sending their children to a Charlotte Mason charter school, letters of support from 9 businesses and individuals, and 167 letters from families intending to either enroll their children, contribute financially, or with interest in joining the Dogwood Charter School Start-Up Committee. Dogwood suggests that this is similar levels of support found by CAB in *Carbondale Area Sch. Dist. v. Fell Charter Sch*, 829 A.2d 400, 405 (Pa. Cmwlth. 2003) and *McKeesport Area Sch. Dist. v. Propel Charter Sch. McKeesport*, 888 A.2d 912 (Pa. Cmwlth. 2005).

In contrast, CVSD notes that of the 321 statements of support submitted by Dogwood as part of its application, only 22 were from persons residing in CVSD, none of the business entity/organization letters were from within CVSD, and of the 47 survey respondents who indicated an intent to enroll in Dogwood,¹⁸ only seven (7) families reside in CVSD. Consequently, CVSD asserts that Dogwood has not demonstrated the necessary support to “sustain and maintain a charter school as an ongoing entity.”

¹⁸ Note: Dogwood’s total represented persons “considering” sending their child to a Charlotte Mason school and, therefore, includes both persons who responded to the enrollment inquiry with “Yes” as well as “Maybe.” CVSD’s total represents persons who intend to enroll (i.e., only “Yes” responses) and therefore is a much smaller number.

To demonstrate sustainable support, the applicant must show that it has reasonably sufficient support from all aggregate groups. Montour School District v. Propel Charter School-Montour, 889 A.2d 682 (Pa. Cmwlth. 2006). However, a lack of support from any particular category (i.e., teachers, parents, other community members, students) is not fatal to demonstrating sustainable support. McKeesport Area Sch. Dist., 888 A.2d 912. The support must be for the actual plan and also from the community in which it is proposed to be located. In Re Helen Murry Charter School for the Arts, CAB 2005-5, p. 10. In at least one (1) prior case, CAB determined that the proper community within which support is to be measured is the school district within which the charter school will operate and from which it seeks approval. In re Legacy Charter School, CAB No. 2000-14. Appellate rulings have also noted that charter schools may also expect to draw students from outside its district and every charter school applicant could expect to admit nonresident students. West Chester Area School District v. Collegium Charter School, 760 A.2d at 463.

CVSD provides public education to students residing in Scott and Collier Townships, and Bridgeville and Heidelberg Boroughs. (F.F. 32) Dogwood's Revised Application indicates an intent to serve students of not only CVSD, but also multiple surrounding communities to "maximize enrollment opportunities." (F.F. 33). However, the exact identities of the surrounding school districts which

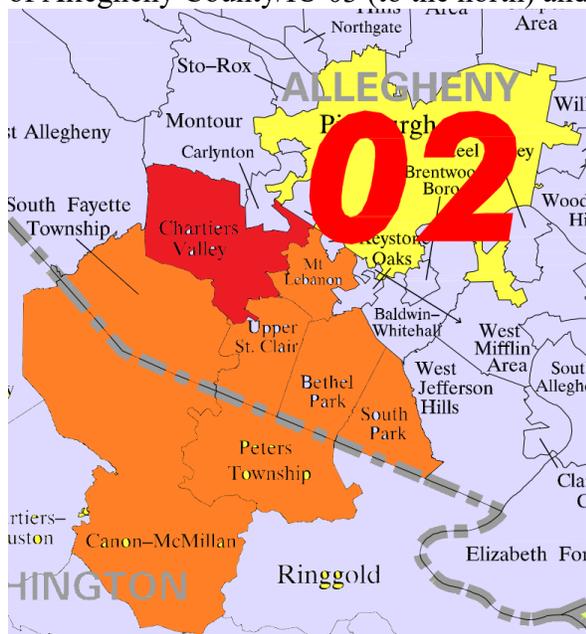
Dogwood might seek to target were not specifically stated in the Dogwood application materials themselves. (*See School District USB*, passim). Instead, the Revised Application notes that founding team members have children who attend or would attend schools in “Bethel Park, Peters Township, Mt. Lebanon, Upper St. Clair, South Park, South Fayette, and Canonsburg [sic Canon-McMillian]” school districts, and that the “parents desire to create a school where their children will be able to attend.” (F.F. 34-36). This list of school districts is also included with Dogwood’s Primary Brief. Dogwood explains that it specifically and intentionally chose a centralized location to be able to provide its relational educational model to students of both CVSD and surrounding school districts.¹⁹ (F.F. 34).

¹⁹ To assist in understanding the relative locations of the various school districts referenced in this Adjudication, the following graphic is a map segment obtained from the Pennsylvania Department of Education website at <https://www.education.pa.gov/Pages/Education-Directory-and-Maps.aspx> at link for Map of School Districts and Intermediate Units. For the benefit of the reader, CVSD has been enhanced in red. School districts referenced in Dogwood’s application as being the home school district of a founding team member and therefore a school district from which Dogwood seeks to serve students are enhanced in orange. The Pittsburgh Area School District/Intermediate

Geographically, Mt. Lebanon School District is located to the east of CVSD. (See F.F. 39). To the southeast of CVSD are (in order from west to east) the school districts of Upper St. Clair, Bethel Park, and South Park. *Id.* South Fayette School District is located to the southwest of CVSD. *Id.* Further below (south of) South Fayette, Upper St. Clair, Bethel Park, and South Park school districts are the districts of (from west to east) Canon-McMillan and Peters Township. *Id.* In Dogwood’s Reply Brief, the Pittsburgh School District was also added as a district which Dogwood intends to serve. Pittsburgh School District is located to the northeast of CVSD. *Id.*

To show support for Dogwood’s application, Dogwood submitted electronic signatures of support (“electronic signatures”); letters of support which were

Unit (“IU”) 02 are enhanced in yellow. The dashed green line indicates the border between parts of Allegheny County/IU 03 (to the north) and Washington County/parts of IU 01 (to the south).



generally based off of a pre-printed form with several check boxes and blanks to note addresses, information about children and students, etc. (“form letters of support”); and nine (9) personal/business letters of support. (F.F. 96, 104, 115). In addition, a number of persons testified both for and against Dogwood at the various hearings held before CVSD on December 22, 2020, February 9, 2021, and December 20, 2021. (F.F. 71-95).

However, review of the various forms of written communication purporting to show support for Dogwood’s application calls into question the level of support really enjoyed by Dogwood for creation of a school in CVSD. The form letters of support submitted by Dogwood with its Revised Application had two formats – some disclosed that the school would be located in CVSD, and some did not. (F.F.106). Only about one-third (1/3) of the total responses clearly indicated support for a Dogwood School in CVSD. (F.F. 112). However, of the 165²⁰ unique form letters of support, approximately 25 did not include sufficient address information to determine the signer’s own school district of residence, or alternatively, the address which was provided was so remote in distance to clearly not belong to the relevant community (e.g., one signer provided no municipality and the zip code provided – 17744 – represents an address in Linden, PA (which is approximately 200 miles from Chartiers Valley School District)). Only 13% of the form letters of support

²⁰ Several individuals indicated their support via multiple formats.

appear to be from individuals who reside in CVSD. (F.F. 110) Of the remaining individuals who did not report living in CVSD, only 16 individuals (representing 17 school aged children) intended to enroll a child at Dogwood. (F.F.111).

Similarly, when duplicate signers are removed, 115 unique electronic signatures of support were submitted on behalf of Dogwood. (F.F. 115-118), only three (3) additional individuals self-reported their school district as CVSD. And of that total, only one (1) both had children of school age and indicated a firm intent to register the children at a Dogwood school.

By contrast, 26 individuals (representing 44 school-aged children) who self-reported their home school district to be outside of CVSD indicated a firm intent to send one or more child(ren) to a “Charlotte Mason Charter School.” Concerningly as it relates to evidence of support for a Dogwood/Charlotte Mason school to be formed in CVSD, the report of the electronic signatures gathered does not state or imply that the signers were advised that the school would be located in CVSD. (F.F. 116).

Review of the business/organization/personal letters of support also calls into question the level of business support for a Dogwood School in CVSD. None of the business/organization/personal letter signers indicated an address consistent with being located within CVSD. On the contrary, one (1) provided an address in Coventry, England. (F.F. 97). Dogwood highlighted the support of two (2)

organizations with its efforts to obtain a charter in CVSD. One was Dogwood's attorney, who maintains her office in Philadelphia (F.F. 102); the other was a pizzeria in a neighboring school district which allowed a table to be used as an information table (F.F. 101). These are not the types of support which are indicative of sustaining the school when it is operating; only support to help it get established.

When considered in total, approximately 90% of Dogwood's support and potential enrollment noted in its Revised Application are from persons/organizations located outside of CVSD. Dogwood did not submit any letters in support of Dogwood opening a school in CVSD from local or state elected officials.

Dogwood attempts to supplement its lackluster support for a charter from within CVSD with evidence of support from outside CVSD. One hundred thirty-five (135) total unique individuals (representing 172 K-12 aged children) indicated an intent to register a child at a Dogwood/Charlotte Mason school through the form letters of support and electronic signatures. (F.F. 126). Of the 135 unique individuals who indicated an intent to register a child at a Dogwood/Charlotte Mason school, only 17 individuals (representing 19 K-12 aged children) live within CVSD. (F.F. 127). Dogwood plans to enroll 195 students its first year. Consequently, CVSD student-residents would appear likely to represent only about 10% of Dogwood's total anticipated enrollment in a Dogwood school located in CVSD.

The demonstrated depth of support from residents outside CVSD has also recently come into reasonable question. On July 11, 2023, CAB voted to grant Dogwood a charter to operate a school to be located in the Bethel Park School District. The school district boundaries of CVSD and Bethel Park are separated by the Upper St. Claire and Mt. Lebanon School Districts; however, they are only approximately two (2) miles apart at their closest point, and the most extreme boundaries of CVSD and Bethel Park School District are only approximately 17 miles apart. See FF. 39. *See also* Google Maps, school district maps, and <https://data.pa.gov/Geospatial-Data/Pennsylvania-School-Districts-Boundaries/s629-r52w>). Both of Dogwood's charter school applications (the one for CVSD and the one for Bethel Park) were proceeding before the respective school boards and then CAB at roughly the same time. Consequently, there is a natural concern whether (and how many) persons who may have signed a generic form letter of support (i.e., one that did not specify that the Dogwood school would be located within CVSD) may have believed that they were supporting the creation of a Dogwood School in Bethel Park, or even would change their indication of support upon learning that Dogwood was opening a charter school in Bethel Park School District.

Of the 135 unique individuals who provided written statements of supported for Dogwood's application to CVSD and who indicated an intent to register a child

at a Dogwood/Charlotte Mason school, 28 individuals (representing 41 K-12 aged children) live in Bethel Park, Peters Township, South Park, or Ringgold School Districts. A Dogwood School operating in Bethel Park School District would likely be substantially equidistant or closer to their residence. One of the stated reasons for Dogwood to select CVSD as the location for a charter school was because of proximity. (F.F. 34) Of the 28 individuals noted above, only three (3) (representing five (5) K-12 aged children) specifically indicated support for opening a Dogwood School in CVSD.

The ties of Dogwood's founders to CVSD are also troubling. CAB has previously noted 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 and do not own businesses or properties in the school district where the charter school will be located, that fact can support a determination that the charter school has failed to demonstrate sustainable support. *See, e.g., Young Scholars of Southeastern Pennsylvania Charter School v. Norristown Area School District*, CAB Docket 2021-05, p.16. *See also Vitalistic Therapeutic Center Charter School v. Bethlehem Area School District*, CAB Docket No. 1999-06, p. 8-9. *Lorraine K. Monroe Academy Charter School*, CAB Docket No. 2000-16, pp. 12-13.

Dogwood has not yet designated a board of directors; instead, its application represents that its Founding Team will select the board of directors if/when a charter

is granted to it. Dogwood's Revised Application lists seven (7) members of Dogwood's Founding Planning Board. If the Founding Team is substituted for a Board of Directors, then only one (1) Founding Team member resides within CVSD, and none appear to work/own a business within CVSD. Dogwood's Revised Application material indicates that Elizabeth Opat White (a.k.a. Beth Opat) lists an address of residence of Bethel Park, PA (Bethel Park School District) and works in Venetia (Peters Township School District). Joanne S. White, LSW, lists an address of residence in Upper St. Clair, PA (Upper St. Clair School District) and is retired. Katherine White lists an address of residence which, per Google Maps, is also within Upper St. Claire School District and works in Pittsburgh. Rebekka Lang lists an address of residence in Bethel Park, PA (Bethel Park School District) with an undisclosed business location. Terri L. Obringer indicated an address consistent with the Baldwin-Whitehall School District, with an undisclosed business location. Jennie Nichole August, ATR-BC, LPC, lists an address of residence in the Mt. Lebanon School District and works in Pittsburgh. The only member of the Founding Team who lives or work in CVSD is Jeffrey Vermeire; he works in Pittsburgh.

In addition to the Core Planning Team, an additional seven (7) individuals are listed as part of the Core Founding Team; however, their addresses/school districts as well as the location/ownership of any business(es) with which they might be associated were not provided with the summary of their qualifications in the Revised

Application. Several of those additional members of the Core Founding Team did, however, complete an electronic signature of support form or provided one of the form letters of support from which an address and/or home school district could be determined.

Megan Hennessey resides in Peters Township School District and appears to work at the same early learning facility as Beth Opat in Peters Township School District. Sarah Chartier-Vermeire resides in CVSD (business location undisclosed). Amie Erickson resides in Bethel Park School District and appears to work in Pittsburgh. Elsbeth Pollman also resides in Bethel Park School District (business location undisclosed), while Trinity Truair lives in South Fayette School District (stay-at-home mother). No residential address information is provided in any of the documents certified by CVSD for the final two additional individuals, Andrew Pollman and Karen Galilei. Andrew Pollman appears to work in Pittsburgh (Pittsburgh School District). Karen Galilei is retired.

If the Founding Planning Board/Core Founding Team are substituted for the not-yet-designated Board of Directors, then in this case, only one (1) of Dogwood's seven (7) Founding Planning Board members lives or works in CVSD. Even when expanded to the Core Founding Team, at most four (4) of the 14 Core Founding Team members reside in CVSD (2 confirmed, 2 unknown). None have provided information clearly indicating that they own a business in CVSD. By comparison,

the minimum number of Core Founding Team Members who live in Bethel Park School District is four (4); that total does not include members whose addresses could not be confirmed.

Given the lack of connection to CVSD through work or residence by Dogwood’s Founding Board and team, the lack of demonstrated support from CVSD residents for the creation of a Dogwood charter school in CVSD, and the lack demonstrated support from CVSD businesses and political leaders, Dogwood has failed to satisfy the requirements of sections 1717-A(e)(2)(i) and 1719(8) of the CSL.

THE REVISED APPLICATION FAILS TO DEMONSTRATE THE CAPABILITY OF DOGWOOD, IN TERMS OF BUDGET AND PLANNING, TO PROVIDE COMPREHENSIVE LEARNING EXPERIENCES TO STUDENTS PURSUANT TO THE CHARTER

Dogwood asserts that at the application phase, the budget plan need only be detailed enough for CAB to determine that the applicant is capable of providing a comprehensive learning experience for students. See *Insight PA Cyber Charter Sch. v. Dep’t of Educ.*, 162 A.3d 591, 611 (Pa. Cmwlt. Ct. 2017) (citing *Central Dauphin Sch. Dist. v. Founding Coalition of the Infinity Charter Sch.*, 847 A.2d 195, 202 (Pa. Cmwlt. 2004)). “A financial plan only has to show that it has considered the budgeting issues and that based on reasonable assumptions, it will have necessary funds to operate the school it proposes.” *Insight*, 162 A.3d at 611 (quoting *McKeesport Area Sch. Dist. v. Young Scholars of McKeesport Charter Sch.*, 2015

WL 5459790 (Pa. Cmwlth., No. 373 C.D. 2015, filed July 13, 2015)). Dogwood further asserts that the Revised Application contains a unique curriculum, fully aligned to Pennsylvania state academic standards.

A. BUDGET AND FINANCE

CAB has used both budget and curricula as a way to assess whether an application provides a comprehensive learning experience. See *In Re Appeal of Denial of Pocono Mountain Mathematics sciences and Technology Charter School by the Pocono Mountain School District*, CAB 2004-2005, pp. 15-16, 24 P.S. §1719-A(5). Consequently, the factors are typically considered in tandem. “Deficiencies in the budget showing that the proposed school lacks the capacity to provide comprehensive learning experiences can be grounds to reject an Application under section 1717(A)(e)(ii).” *Vision Academy School of Excellence v. Southeast Delco School District*, CAB No. 2020-02 at 14. The Commonwealth Court has noted that the CSL does not require specifics in the budget as long as the school board (or upon appeal, CAB) “can determine that the applicant is capable of providing a comprehensive learning experience for students.” *Cent. Dauphin Sch. Dist. V. Founding Coal. Infinity Charter Sch.*, 847 A.2d 195 (Pa. Cmwlth 2004).

Dogwood initially plans to operate as a K-8 school with initial enrollment of 195, expanding over the following four (4) years to 295, as grades 9-12 are added, one grade per year. (F.F. 25). Dogwood’s proposed budget indicates that its

finances are almost entirely dependent upon per-student payments from the home school districts, with no additional significant sources of startup or other funding/lines of credit listed. (F.F. 128-129) This would appear to make Dogwood's finances particularly reliant on reaching its enrollment goals.

One obvious factor which parents may consider when choosing whether to enroll/disenroll their child in/from a charter school is the distance/convenience to the school. This is especially true when a charter school, like Dogwood, places a great emphasis on parental involvement and sets as objectives that 80% of parents will be willing to volunteer time and effort to school activities and projects and that at least 10 family members will be in attendance at every community event. (F.F. 26). However, around 90% of the enrollment at Dogwood is expected to come from students residing outside of CVSD (F.F. 25, 110-111).

In its *Motion to Supplement the Record*, Dogwood disclosed that it is also seeking a charter in a nearby school district, Bethel Park. On July 11, 2023, that Dogwood application for a school in the Bethel Park School District was granted by CAB on appeal. (F.F.0). Dogwood indicated it selected the location for a charter school in CVSD, in part, on "convenience of proximity to multiple communities to maximize enrollment opportunities" (F.F. 33-34). Individuals living in, and to the southeast of, Bethel Park School District may likely find the recently approved Dogwood School located in Bethel Park School District to be more attractive based

upon proximity and more proximate community ties. In total, approximately 40 students which Dogwood claims to be part of its potential enrollment at a CVSD-based school reside in Bethel Park, South Park, Peters Township, and Ringgold school districts.²¹ Dogwood might see further attrition of its previously anticipated student enrollment by residents of the Upper St. Claire and Mt. Lebanon school districts, as those districts separate CVSD from the Bethel Park School District and residents of those districts might also find the Dogwood School in Bethel Park to more convenient and/or a better fit. Over one-half (1/2) of the statements/signatures submitted by Dogwood as support for a charter school located in CVSD do not specify that the signer's support is specifically for a Dogwood/Charlotte Mason in CVSD. (F.F. 96, 100, 104, 106, 112, 115, and 116).

Consequently, there exists legitimate concern that Dogwood's anticipated enrollment projections for a school located in CVSD have become unrealistic. Operating a second Dogwood School utilizing the same Charlotte Mason philosophies from a location so close to CVSD would have the likely effect of cannibalizing a significant portion of the projected enrollment which may have come from the southeast of CVSD. Consequently, the projected enrollment for a

²¹ School District USB at Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/2-LettersofintentandsupportCV.pdf at 4, 8, 17, 22, 23, 36, 43, 50, 56, 64,85,98,104,108,117,118, 124, 156,160,166 and Char Valley Application Nov 2021 (1).zip\Char Valley Application Nov 2021/Appendix E (Evidence of Support)/3-ElectronicSignaturesofSupport.pdf at signatures 3, 10, 11, 16, 29, 38, 47, 55, 123, 134,143, 144.

Dogwood School in CVSD appears unrealistic given that it was just issued a charter in Bethel Park School District.

Even had the Bethel Park application not been successful, Dogwood's enrollment numbers are suspect given the negligible support from within the CVSD community as a whole. Since Dogwood's proposed budget success is directly dependent on achieving full or virtually full enrollment, Dogwood's budget was also suspect. With the Bethel Park application having been granted, Dogwood's enrollment projections can only suffer, calling into even greater question the budget and financial picture of a Dogwood school in CVSD.

Site costs such as rent, cleaning, security, electricity, etc. are unlikely to be reduced appreciably if there is slightly lower than projected enrollment. However, a slight reduction in enrollment – for example, only reaching 95% of anticipated enrollment (185 students for the first year of operation) – would not permit Dogwood to appreciably reduce employee costs, as a reduction of that size would likely be spread across multiple grades instead of being isolated to a single grade level. If site and personnel costs remain the same, and all other costs and revenue are reduced by 5% to reflect enrollment of 185 students instead of 195, Dogwood's revenues would be roughly calculated to \$3,390,000 instead of the projected \$3,665,000.00. Dogwood expenditures would drop as well, a 5% reduction in enrollment would

bring expenditures currently projected at around \$3,613,00.00 to somewhere closer to \$3,556,000.00.

Admittedly, the 5% reduction in enrollment only affords the ability to make rough calculations on any lowered enrollment's effects on revenue and expenses. However, if the rough calculations hold reasonably true, then Dogwood's projected balance surplus at the end of year 1 of \$51,217 (F.F. 137) could instead become a projected deficit of around \$165,000. For reasons explored more fully below, it appears likely that Dogwood would also need to include in its budget a plan to cover the installation cost of a chairlift or elevator so that persons with certain physical challenges may reach the upper floors. Finally, Dogwood also appears to have not accounted for the costs to remodel its restroom facilities to make them ADA compliant. Even if those costs were to come from borrowing, Dogwood should have accounted for the necessary debt service when creating its budget. None of those remodeling/improvement costs have been factored into the budget. Consequently, Dogwood's budget appears unrealistic. Balancing the budget would likely require a combination of reductions in staffing, elimination of previously planned student experiences/services and/or an increase in class sizes to accommodate professional staff reductions.

B. CURRICULA

Dogwood’s teaching strategy also does not demonstrate full compliance with PACC standards. For example, PACC Standard CC.1.4.1.B for 1st grade students requires that the student “[i]dentify and write about one specific topic.” (FF 138) Dogwood’s strategy to comply with this standard is “oral narration of nonfiction books; dictate to an adult and/or draw pictures to illustrate understanding.” (F.F. 139). In fact, Dogwood’s proposed English Language Arts curriculum appears to ignore or lag several grade levels behind the PACC standards for most standards which incorporate any form of student writing in the primary grades. Clear evidence of actual student writing in the curriculum (i.e., not oral narration, dictation to the adult, drawing, or penmanship/keyboarding exercises) is delayed until 3rd grade (F.F. 141); the PACC Standards clearly begin evaluating student writing in 1st grade. (F.F. 138).

Even Dogwood’s 3rd grade curriculum does not appear to match standards. By way of example, the proposed compliance with the 3rd grade PACC standard CC.1.4.1-12.X (“Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences”) is proposed to be satisfied by Dogwood by “[o]ffer[ing] time and space to write as the child desires. Begin to have students write a part and tell a part, being sure to cite evidences from

texts.” (F.F. 141) (Emphasis added). The apparent result of Dogwood’s proposed curricula, where the adult writes for the student instead of the student writing for him/her self is demonstrated via the sample examination found on page 16 of the Dogwood’s Application; it is a Year Three examination which was “Narrated by student; Scribed by an Adult.” (F.F. 142).

Given the example related solely to writing/composition, Dogwood’s proposed curricula does not appear to comply with all of the applicable state standards. If Dogwood’s enrollment does fall short of projections and budget cuts are necessary, there is also an obvious concern that those budget cuts might come at the expense of other planned student educational opportunities and teaching.

DOGWOOD’S REVISED APPLICATION FAILS TO DEMONSTRATE THAT IT WILL PROVIDE A CONTINUUM OF SERVICES TO MEET THE NEEDS OF STUDENTS WITH DISABILITIES AND WHETHER THE PROPOSED SCHOOL IS ADA COMPLIANT (SECTIONS 1717-A(E)(2)(II) & 1719-A(11))

The floor plans for the selected school facility submitted with Dogwood’s Revised Application indicate that the upper floors are accessible solely by switch-back or central-open-shaft staircases which are approximately 3’-4’ wide in each direction. (F.F. 143-144). The floor plans do not otherwise disclose the existence of elevators/stair lifts or what would appear to be wheelchair accessible restroom facilities throughout the buildings. (F.F. 145-146). The Letter of Intent to Lease submitted with Dogwood’s application indicates that the proposed landlord will be

responsible for delivering the “Building Structure, Roof, Plumbing, Electrical, Sprinkler, HVAC and Environmental [] in good condition,” but Dogwood would be responsible to pay for improvements at its own cost and expense per a mutually agreed plan. (F.F. 147). Consequently, if ADA-compliance upgrades are required for upper floor accessibility, those would appear to be improvements which Dogwood would be required to finance. As observed previously, those apparent improvement expenses necessary for Dogwood to be able to provide appropriate education to students with certain physical challenges have not been reflected in the budget, are not of a nature where the improvements can be planned to be delayed without discriminating against those potential students and would likely be of sufficient cost that they could create an operating deficit, even if Dogwood does achieve full enrollment. Consequently, Dogwood has not demonstrated that it has an appropriate admissions policy which is fully in compliance with sections 1717-A(e)(2)(ii) and 1719-A(11) of the CSL, 24 P.S. §§ 17-1717-A(e)(2)(ii) & 17-1719-A(11).

DOGWOOD’S REVISED APPLICATION FAILS TO DEMONSTRATE THAT IT HAS AN EVALUATION AND ADMISSIONS POLICY WHICH COMPLIES WITH THE LAW (SECTIONS 1717 A(E)(2) AND 1719(6))

Dogwood represents that annual enrollment for each school year will be by lottery. (F.F. 150). Dogwood asserts that admission to its school will be open to all eligible students who reside in the Commonwealth of Pennsylvania, with certain

preferences referred to within Dogwood’s proposed admission policy. (F.F. 149). If more students attempt to enroll than there are openings, each student will be assigned a waiting list spot and will be admitted as openings become available. (F.F. 150 152).

Dogwood’s proposed admission policy indicates that applicants will be given preference based on the following qualifications: CVSD residents, current Dogwood students, children of those who actively participate in development of Dogwood (e.g., Founding Coalition, the Board of Trustees, and employees of DCS), siblings of current Dogwood students, Students living in other school districts who are Pennsylvania residents. (F.F. 149). Dogwood’s admission policy indicates it will not discriminate on the basis of intellectual ability, athletic ability, disability, English language proficiency, race, creed, gender, sexual orientation, religion, national origin, ancestry, or any other protected class.

Unfortunately, Dogwood’s Revised Application and its admission policy are not necessarily consistent. The enrollment preference list indicates that preference will be given to “(1) student residents of CVSD, (2) (4) siblings of current DCS students...” (F.F.151). Even though siblings are listed fourth on the preference list and section 17-1723-A(a) of the CSL, 24 P.S. § 17-1723-A(a) requires that first preference be given to students who reside within the host school district, Dogwood’s Revised Application indicates that when an opening occurs:

*Dogwood will contact the family of the next student on the waiting list. When openings occur, wait-listed families are notified, in accordance with their “ranking,” and are given the opportunity to accept the space. **Siblings of enrolled students will be given preference over other names on the wait-list***

(F.F. 152).

There also is concern whether Dogwood’s description of its application process, if followed as described in the Revised Application material, could result in some populations being disparately and negatively impacted. Dogwood’s Revised Application states, in part, that:

Parents or guardians must complete a student application (both paper and web-based versions will be available) by the established deadline and supply the documentation listed below in order to be eligible for admission. Where necessary, the Dogwood staff will provide information so that parents can obtain student records from their present schools. These items – while not conditions of enrollment – will ensure a smooth enrollment process:

- *Birth certificate or other official documentation proving birth date*
- *Student Social Security Number*

* * * * *

While Dogwood’s brief asserted that the documents are not a requirement, the policy itself requires that the parent “must complete a student application...and supply the documentation listed below in order to be eligible for admission.” Even if the informal practice might be to waive obtaining some of the documentation, an admission policy which implies that the student will be requested and required to provide a social security number could have a disparate impact on some population groups and a chilling effect on application submissions. Consequently, Dogwood

has not demonstrated that it has an appropriate admissions policy which is fully in compliance with sections 1717-A(e)(2) and 1719-A(6) of the CSL, 24 P.S. §§ 17-1717-A(e)(2) & 17-1719-A(6).

CONCLUSION

Based upon the foregoing findings of fact, conclusions of law, and discussion, the State Charter School Appeal Board finds that Dogwood Charter School's Revised Application does not meet the requirements set out in the Charter School Law, and the following Order will be entered:

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

**Dogwood Charter School,
Appellant,**

vs.

**Chartiers Valley School District,
Appellee.**

Docket No. CAB 2022-01

ORDER

AND NOW, this 13 day of November 2023, based upon the foregoing, the State Charter School Appeal Board, unanimously²² finds that Dogwood Charter School’s Revised Application for a charter to operate a school within the Chartiers Valley School District is insufficient under the requirements set out in the Charter School Law, and Dogwood Charter School’s application is **DENIED**.

For the State Charter School Appeal Board



**Dr. Stacey Marten
Chair**

²² At the September 12, 2023, meeting Members Marten, Schwartz, Faustman, Killion and Mumin voted to deny the application.

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Date of Mailing:

November 13, 2023

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

**Dogwood Charter School,
Appellant,**

vs.

**Chartiers Valley School District,
Appellee.**

Docket No. CAB 2022-01

**Appendix A
(Available Upon Request)**