

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

NORRISTOWN ACADEMY CHARTER SCHOOL	:	
	:	
Petitioner,	:	
v.	:	Docket No. 2023-01
	:	
NORRISTOWN AREA SCHOOL DISTRICT	:	
	:	
Respondent.	:	

DECISION ON MOTION TO QUASH

On February 18, 2020, Norristown Area School District (“District”) denied Norristown Academy Charter School’s (NACS) charter school application. NACS submitted a revised charter school application on May 20, 2020, which the District ultimately denied on August 17, 2020. On December 14, 2020, NACS filed a Petition to Appeal Denial of Charter School Application (“Petition”) with the Montgomery County Court of Common Pleas (“Court of Common Pleas”) along with the required signatures and accompanying affidavits pursuant to Charter School Law (“CLS”) 17-1717-A(i)(5). On June 26, 2023, the Court of Common Pleas granted this Petition, finding the signatures sufficient and allowing NACS to move forward with a petition to appeal to the State Charter School Appeal Board (“CAB”). On June 27, 2023, the District filed a Notice of Appeal of the June 26, 2023, decision (“June 26 Appeal”) with the Commonwealth Court, triggering an automatic supersedeas. On June 30, 2023, NACS filed a Petition to Appeal with CAB (“CAB Appeal”) of the denial of their charter school application. The District then filed a Motion to Quash (“Motion”) the CAB Appeal with CAB on July 12, 2023, claiming the CAB Appeal was barred due to the automatic supersedeas of the June 26 Appeal. Subsequently, NACS filed an Emergency Motion to Vacate the Automatic Supersedeas on July 12, 2023, with the Court of Common Pleas, which was granted on July 31, 2023. On

August 2, 2023, the District filed an Application to Reinstate the Automatic Supersedeas (“Application to Reinstate”) with the Commonwealth Court. This Application to Reinstate was temporarily granted on September 5, 2023, and permanently granted on September 7, 2023, by the Commonwealth Court. Oral argument on the June 26 Appeal is scheduled for October 10, 2023.

The issue raised by the District’s Motion is whether NACS’s CAB Appeal should be quashed pending the outcome of the June 26 Appeal challenging the Court of Common Pleas decision on signature sufficiency. This Motion was premised upon the Pennsylvania Rules of Appellate Procedure 1736(b), which provides for an automatic supersedeas while an appeal is pending. The District argues that, consistent with this Rule, its June 26 Appeal creates an automatic supersedeas while the appeal is pending. Unless the Court of Common Pleas’ decision on appeal is affirmed, the necessary determination on the sufficiency of the signatures under 24 P.S. 17-1717-A(i)(5) does not exist to allow NACS to appeal to CAB and to authorize CAB to hear the CAB Appeal.

On September 12, 2023, CAB held a hearing on the Motion where the District reiterated its argument and further provided that the automatic supersedeas was in effect subsequent to the Commonwealth Court’s grant of their Application to Reinstate on September 7, 2023. NACS recognized this action by the Commonwealth Court, changing its request that the CAB Appeal move forward¹ to instead ask that CAB dismiss the Motion and craft a motion of its own to hold the CAB Appeal in abeyance.

¹ NACS originally filed its response to the District’s Motion before the Commonwealth Court had granted the District’s Application, reinstating the automatic supersedeas. This response argued that because the Court of Common Pleas had granted their Emergency Motion to Vacate the Automatic Supersedeas, the CAB appeal should move forward.

The CLS governs a charter school applicant's right to appeal to CAB after the denial of a charter school application. Before such an appeal is allowed, the charter school applicant must obtain a specified number of district resident signatures on a petition, which must be found sufficient by a local court of common pleas under 24 P.S. 17-1717-A(i)(5). The District's June 26 Appeal challenges the sufficiency of the district resident signatures on NACS's petition. If the Commonwealth Court finds in favor of NACS and affirms the Court of Common Pleas determination that the signatures on the Petition are sufficient, then the NACS can move forward on their appeal to CAB. Conversely, if the Commonwealth Court finds in favor of the District in their June 26 Appeal, NACS has no right to appeal to CAB, as they have not met the signature prerequisite of 24 P.S. 17-1717-A(i)(5). Therefore, to move forward with the CAB Appeal before the Commonwealth Court has resolved the issue of signature sufficiency would open the possibility that a decision made by CAB would be vacated, thus frustrating judicial economy.

CAB has faced a similar issue before in *Roberto Clemente Elementary Charter School v. Allentown School District*, CAB Docket Nos. 2012-03 and 2012-10. There, CAB granted Allentown School District's Motion to Quash without prejudice, finding that the appeal to CAB was not properly in front of CAB, due to the automatic supersedeas triggered by an appeal to the Commonwealth Court on the question of whether the Court of Common Pleas correctly decided the signature requirement under 24 P.S. 17-1717-A(i)(5). *Id.* a 3.

For the foregoing reasons, and in accord with the Commonwealth Court's September 7, 2023, Order granting the District's Application to Reinstate, CAB grants the District's Motion to Quash.

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

NORRISTOWN ACADEMY CHARTER SCHOOL	:	
	:	
Petitioner,	:	
v.	:	Docket No. 2023-01
	:	
NORRISTOWN AREA SCHOOL DISTRICT	:	
	:	
Respondent.	:	

ORDER

AND NOW, this 11th day of October, upon consideration of the Norristown Area School District's Motion to Quash the June 30, 2023, Petition to Appeal filed by the Norristown Academy Charter School, to the State Charter School Appeal Board, and the responses thereto, and based upon the foregoing and the vote of this Board,² IT IS HEREBY ORDERED that the District's Motion to Quash is granted without prejudice.

For the State Charter School Appeal Board,



Chairperson

Date of Mailing: October 11, 2023

For Petitioner: Alan C. Kessler, Esquire
 Brian J. Slipakoff
 Duane Morris LLP
 30 S. 17th St.
 Philadelphia, PA 19103
 akessler@duanemorris.com
 bslipakoff@duanemorris.com

For Respondent: Peter C. Amuso, Esquire
 Rudolph Clarke, LLC
 Seven Neshaminy Interplex, Suite 200
 Trevose, PA 19053
 Pamuso@rudolphclarke.com

² At the Board's meeting on September 12, 2023, the District's Motion to Quash the June 30, 2023, Petition to Appeal was unanimously granted by a vote of 5 to 0.