

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

VALLEY FORGE CLASSICAL	:	
ACADEMY CHARTER SCHOOL,	:	
Petitioner,	:	
	:	CAB Docket No. 2024-02
v.	:	
	:	
WEST CHESTER AREA SCHOOL	:	
DISTRICT,	:	
Respondent.	:	

**OPINION**

**BACKGROUND**

Valley Forge Classical Academy Charter School (“Applicant”) filed an application for a charter school with the West Chester Area School District (“District”) on May 1, 2023, (“Original Application”) to open and operate a charter school. The West Chester Area School District School Board (“Board”) held two public hearings on the Original Application on June 14, 2023, and August 1, 2023. On August 23, 2023, the Board voted to deny the Original Application. Thereafter, on December 1, 2023, Applicant filed a revised application for a charter (“Revised Application”) with the District. On January 22, 2024, the Board voted to deny the Revised Application.

Pursuant to Section 1717-A(h)(2) of the Charter School Law, (“CSL”), Act of March 10, 1949, P.L. 30, *as amended*, 24 P.S. § 17-1717A(h)(2), *added by* Section 1 of the Act of June 19, 1997, P.L. 225, “in order for a charter school applicant to be eligible to appeal the denial of a charter by the local board of directors, the applicant must obtain the signatures of at least two per centum 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.” Applicant filed an Emergency Petition for Certification of its Petition (“Petition”) to appeal the denial of its charter school application and

on April 17, 2024, the Honorable Nicole R. Forzato of the Court of Common Pleas of Chester County granted the Petition.

On June 7, 2024, Applicant filed an appeal with the Charter School Appeal Board (“CAB”) from the Board’s decision. According to the Board’s Adjudication, Applicant has not demonstrated sustainable support to establish a charter school, has not properly planned to provide comprehensive learning experiences to students, has not properly considered or addressed all of the information required in the application process, and is not an adequate model for other public schools.

### **FINDINGS OF FACT**

1. Applicant filed an application for a charter school with the District on May 1, 2023, which was denied on August 23, 2023.

2. On December 1, 2023, Applicant filed a Revised Application for a charter with the District.

3. On January 22, 2024, the Board voted to deny the Revised Application.

4. The Revised Application includes this mission statement: “To inspire students to think with judgment and communicate effectively in pursuit of academic excellence by providing a rigorous classics-based education.” Certified Record No. 3 – District’s Certified Record (“District CR”), 2a. Exh. 1, VFCACS Rev. A. p. 6.

5. The Revised Application states that “the core philosophy of Valley Forge Classical Academy Charter School is that all students can achieve success through the fidelity of implementation of the pillars of a classical education in the liberal arts and sciences, with instruction in the principles of moral character and civic virtue.” District CR, 2a. Exh. 1, VFCACS Rev. A. p. 6.

6. The Revised Application proposes a rigorous curriculum focusing on a classical education style. District CR, 2f., Board Adjudication of Rev. A., Finding of Facts (“F.F.”) No. 19; District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 8, 26-27, 56.

7. The Revised Application proposed for year one a total of 675 students in grades K-8. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 2, 78; District CR, 1k., Hearing Transcript – 6/14/2023, Notes of Testimony (“NT”) 55-56.

8. In support of the Revised Application, it produced eighty-seven email letters. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 769-871.

9. Nineteen people spoke in support of Applicant at the two public meetings, whereas twenty-six spoke against it at the first hearing and twenty-three at the second hearing. District CR, 2f., Board Adjudication of Rev. A., F.F. Nos. 126-128.

10. Applicant provided pre-enrollment forms for only about twenty-seven families, and there is no indication if they even reside in the district. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 82-83.

11. The Revised Application proposes that “[s]tudents enrolling for the first time in a public school in the School District will be screened by a team of teachers (including both regular and special education teachers) to identify any possible indication that the child may need a specialized or intensive education program, or referral to the student’s home district.” District CR, 2a. Exh. 1, VFCACS Rev. A., p. 103.

12. The Revised Application did not include the Articles of Incorporation. *See generally*, District CR, 2a. Exh. 1, VFCACS Rev. A.

13. The Revised Application had insufficient details as to how the curriculum would be modified to meet the needs of all students including those with IEPs, gifted learners, and English

Learners, including that staffing rates did not reflect the ability to provide individualized programming. District CR, 2f., Board Adjudication of Rev. A., F.F. No. 55.

14. The Revised Application did not account for hiring an ESL teacher in its planning. District CR, 2f., Board Adjudication of Rev. A., F.F. No. 56; District CR, 11., Hearing Transcript – 8/1/2023, NT 22.

15. The Revised Application indicated willingness to provide document translation to students only “when possible” along with an intention to “rely on parent volunteers of different language backgrounds to collaborate in meetings.” District CR, 2f., Board Adjudication of Rev. A., F.F. No. 65.

16. The Revised Application identifies the funding sources as state general purpose aid, state and federal program revenues, grants, earned income, and charitable contributions, but provides no details and has no startup budget for year zero. District CR, 11., Hearing Transcript – 8/1/2023, NT 48-49.

17. The Revised Application is missing information on health care plans and coverage for staff, District CR, 11., Hearing Transcript – 8/1/2023, NT 86-87; had insufficient budgeting for retirement benefits, *Id.* at NT 88-89; lacked repayment information for a planned start-up loan, *Id.* at NT 49-50, 85; was underbudgeted for proposed health insurance, *Id.* at NT 87; and failed to differentiate tuition rates for regular and special education students, *Id.* at NT 90-91.

## CONCLUSIONS OF LAW

1. CAB has jurisdiction in this matter. Section 1717-A(f) and (i)(1) of the Charter School Law, Act of March 10, 1949, P.L. 30, *as amended, added by* Section 1 of the Act of June 19, 1997, P.L. 225, 24 P.S. § 17-1717-A(f) and (i)(1).

2. The CSL governs the application process, the approval process, the revocation and renewal of charters, and the operation of charter schools in Pennsylvania. 24 P.S. §§ 17-1701-A – 17-1751- A.

3. Applicant was given notice and an opportunity to be heard in conformity with the CSL and notions of due process.

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

5. Applicant did not meet its burden to show that it had sustainable community support.

6. Applicant did not meet its burden to show that it will serve as a model for other public schools.

7. Applicant did not meet its burden to show that based on reasonable assumptions, it will have the necessary funds to operate the school it proposes. *Insight PA Cyber Charter Sch. v. Dep't of Educ.*, 162 A.3d 591, 611 (Pa. Cmwlth. 2017).

8. Applicant did not meet its burden to show that it can provide comprehensive learning experiences, at least to special needs students.

9. Applicant did not meet its burden to show how its curriculum would meet the needs of those with IEPs, gifted learners, and English Learners.

## DISCUSSION

### **I. Standard of Review and Burden of Proof**

CAB must apply a *de novo* standard of review when entertaining appeals from a district's denial of a charter school's application; such review requires CAB to give "appropriate consideration" to the findings of the district board, while making an independent determination as to the merits of the charter application. *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1180 (Pa. 2002). While giving due consideration to the vote of the school board, CAB must independently review the record in accordance with the requirements of the CSL. *Id.*, 812 A.2d at 1179-1180.

The degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is the lowest degree of proof recognized in civil judicial proceedings, *Lansberry, supra*, 578 A.2d at 602, citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950), and is generally understood to mean that the evidence that demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery*, 70 A.2d at 856. Accordingly, the record in this matter is reviewed to determine if the evidence which the Charter School produced at the hearings meets the Charter School's burden of proving that its revised application satisfies all the requirements enumerated in the CSL at Section 1717-A(e)(2), 24 P.S. § 17-1717-A(e)(2), thus, warranting the grant of the revised application.

## **II. Purpose of the CSL and criteria for evaluating an application**

Pursuant to Section 1719-A of the CSL, 24 P.S. § 17-1719-A, *added by* Section 1 of the Act of June 19, 1997, P.L. 225:

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

- (1) Improve pupil learning.
- (2) Increase learning opportunities for all pupils.
- (3) Encourage the use of different and innovative teaching methods.
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- (6) Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

This Section also provides that in evaluating a charter application, the local board of school directors shall consider the following:

- (i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing under section (d);
- (ii) 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.
- (iii) The extent to which the application considers the information requested in section 1719-A2 and conforms to the legislative intent outlined in section 1702-A3; and

- (iv) The extent to which the charter school may serve as a model for other public schools.

As noted above, the Board found shortcomings in all these areas and, therefore, these four criteria must be considered here.

### **III. Basis for the Board’s denial**

The Board denied the Revised Application for the following reasons:

- The revised application fails to demonstrate that the applicant can serve as a model for other public schools in the District.
- The revised application does not conform to the legislative intent in 24 P.S. § 1719-A.
- The revised application does not include evidence of sustainable support.
- The revised application does not demonstrate the capability of the applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the charter *and* the revised application fails to describe a complete and comprehensive curriculum that is aligned to state standards.<sup>1</sup>

### **IV. Legal Analysis**

#### **A. Does the Revised Application demonstrate sustainable support for the charter school, including support by teachers, parents, and other community members?**

Sustainable support has been defined by CAB as “the support sufficient to sustain and maintain the proposed charter school as an on-going entity.” *Brackbill v. Ron Brown Charter School*, 777 A.2d 131 (Pa. Cmwlth. 2001). The applicant must “show that the charter school enjoys reasonably sufficient support in the aggregate from all groups, ‘not showing some minimum level

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<sup>1</sup> Because CAB has used curricula as a way to assess whether an application provides a comprehensive learning experience, *see, e.g., In Re Appeal of Denial of Pocono Mountain Mathematics Sciences and Technology Charter School by the Pocono Mountain School District*, CAB 2004-05, pp. 15-16, 24 P.S. § 17-1719-A(5), these two factors are often considered in tandem.



of support from each of the more discrete groups listed.” *Montour School Dist. v. Propel Charter School-Montour*, 889 A.2d 682, 687 (Pa. Cmwlth. 2006)(internal citation omitted). The proper community to determine sustainable support is the school district in which the charter school is to be located. *In Re: Appeal of Legacy Charter School*, CAB Docket No. 2000-14, p. 11. The appropriate measurement for sustainable support is to compare the amount of support against the initial opening and operation plan of the charter school. *In Re: Bear Creek Community Charter School*, CAB Docket No. 2004-2, at 6-7.

The Revised Application proposed for year one a total of 675 students in grades K-8. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 2, 78; District CR, 1k., Hearing Transcript – 6/14/2023, NT 55-56. In support of the Revised Application, it produced eighty-seven email letters. Nineteen people spoke in support of Applicant at the two public meetings, but twenty-six spoke against it at the first hearing and twenty-three at the second hearing. District CR, 2f., Board Adjudication of Rev. A., F.F. Nos. 126-128.

Applicant relies on *School District of Pittsburgh v. Provident Charter School for Children with Dyslexia*, 134 A.3d 128, 141-42 (Pa. Cmwlth. 2016), where sixty letters and twenty-four speakers were deemed sufficient to show community support. However, the school in that case was proposing to enroll only 96 students and had 115 signatures from the local community in the Revised Application. *See Provident Charter School for Children with Dyslexia v. Pittsburgh Public Sch. Dist.*, CAB Docket No. 2014-06, at 7, 10-11, and 25. The District also points out that only nine email letters in support of the Revised Application definitively indicate that the writer lives within the District. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 769-871. Other weaknesses are that only one charter school board member lives in the district and there is no information on whether any of the founding partners of the coalition do. District CR, 2a. Exh. 1, VFCACS Rev. A., pp. 84, 876, 931. Further, Applicant also has pre-enrollment forms for only about twenty-seven families, and there is no

indication if they even reside in the district. District CR, 2a. Exh. 1, VFCACS Rev. A., p. 82.<sup>2</sup> As such, CAB concludes that sustained support is not established.

**B. Does the Revised Application demonstrate that it will provide students with a comprehensive learning experience?**

Applicant asserts that its curriculum and educational program align with state standards and the requirements of the CSL. Among the many criticisms lodged against the curriculum are that there is limited information about continuum of special education services and English Language Learners; issues with screening special education students; state and local assessments; restraint and seclusion policies; and extracurricular activities. It notes, relying on *Vision Acad. Charter Sch. of Excellence v. Southeast Delco Sch. Dist.*, 2023 Pa. Commw. Unpub. LEXIS 148, at \*10 (Pa. Cmwlth. Mar. 30, 2023), that it provided an appendix to its original application that included specifically detailed curriculum frameworks aligned to various academic standards. It admits that it did not re-supply all this information with its *revised* application “because it was already part of the record before the district.” Certified Record No. 7 – VFCACS Brief, p. 12.

In its adjudication of the Revised Application, District CR, 2f., Board Adjudication of Rev. A., F.F. No. 33, the Board noted that:

The School District’s administration reviewed the Application’s original curricular information to determine if the materials submitted contained a complete curriculum for the proposed grades and subjects to be offered to students, evidence of planned instruction aligned to Pennsylvania standards, and the unique elements of the classical education proposed by the Applicant. The School District submitted a detailed Evaluation Report (“Application Evaluation Report”) identifying the numerous areas in which the curriculum is not aligned with the Pennsylvania standards and where the Applicant insufficiently addressed how the curriculum would be modified or adapted to meet the needs of all students, including students with Individualized Education Programs (“IEPs”), 504s, gifted students, and English Learners (“EL”). The Application Evaluation Report identified in detail by subject matter and grade how the curriculum is not aligned with applicable Pennsylvania standards in science, math, English Language Arts, history, computer

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<sup>2</sup> Applicant attempts to enhance the record but pointing out that *after* the denial of its Revised Application, it gathered additional signatures. They are not part of the record and cannot be considered.

science, business education, family and consumer sciences, technology education, health, and visual arts and music. (VFCACS 1399-1441).<sup>3</sup>

In addition, the Board observed that in its Revised Application, Applicant made only minimal changes. District CR, 2f., Board Adjudication of Rev. A., F.F. Nos. 33-34.

One major issue is that the Revised Application proposes that “[s]tudents enrolling for the first time in a public school in the School District will be screened by a team of teachers (including both regular and special education teachers) to identify any possible indication that the child may need a specialized or intensive education program, *or referral to the student’s home district.*” (Emphasis added). However, the District observes that charter schools in Pennsylvania are not permitted to refer special education students, or students who may be thought to need special education services, to the student’s home district for services, such as evaluations. Instead, it is the responsibility of the Applicant as the Local Educational Agency (“LEA”) to provide a fair and appropriate public education (“FAPE”) at the school’s expense. District CR, 2f., Board Adjudication of Rev. A., F.F. No. 63. The Applicant has no real answer to this argument but does assert that any plan to identify such students, need be only a general one for accommodating special education students, citing *In re: Vitalistic Therapeutic Center Charter School*, CAB 2000-15. However, the “general” plan Applicant proposes to the extent it refers the student to the home district, is not legally permissible.<sup>4</sup> Thus, it does not show that it can provide comprehensive learning experiences, at least to these students.

**C. Does the Revised Application clearly meet the requirements of Section 1719-A and conform to the legislative intent outlined in Section 1702-A?**

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<sup>3</sup> See District CR, 1g. Exh. 7, Dist. Admin. Eval. Report 2023, pp. 1399 -1441.

<sup>4</sup> Applicant also asserts that contrary to the Board’s opinion, its decision not to participate in the Pennsylvania School Employees Retirement System while not enrolled in an alternative retirement plan is an improper basis to reject the application as there is no requirement to do so until the application is approved and nothing in the CSL states anything to the contrary. This is an issue we need not reach given the disposition of this matter.

Pursuant to Section 1719-A of the CSL, an applicant must address the following elements in its application:

- (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 section 1723-A.
- (7) Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 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 section 437.
- (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 section 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 section 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 employes and the board of trustees of the charter school.

In this case, the areas found wanting are subsections 4-7, 9, 11-13, and 15-17, which will be considered separately.

### **The Proposed Governance Structure**

In challenging the proposed governance structure of the Applicant, the District points out that the Revised Application did not include the Articles of Incorporation, a document used to determine whether the charter itself is granted to a non-profit corporation as required by Section 17-1703 of the CSL. *See Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 407-408 (Pa. Cmwlth. 2003). While the Articles of Incorporation itself, is not *specifically* articulated in the CSL as a document required to be produced, that does not obviate the responsibility to produce evidence to whom the charter itself is being granted. However, this would appear to be an amendable defect.

Next, regarding the by-laws, the District expresses concern with the possibility of committees overreaching, asserting that the lack of details *could* be inconsistent with Pennsylvania law. For example, it contends that there is no indication that board committee meetings must be public and no limitations on the committees themselves, allowing for *potential* committee usurpation of the charter

school board's powers. These objections are premised on unsupported presumptions, however. Applicant correctly argues that the by-laws gives its Board of Trustees the authority to decide matters "related to the operation of the school, including but not limited to budgeting, curriculum and operating procedures." Certified Record No. 7 – VFCACS Brief, p. 10; *See* District CR, 1a. Exh. 1, VFCACS Org. A., p. 363. That in doing so, that the Board would act in an illegal manner is not properly based merely on presumption. Therefore, the governance factor does not preclude granting the Revised Application.

### **The Mission and Curriculum**

An application to establish a charter school is required to include "[t]he mission and education goals of the charter school, *the curriculum to be offered* and the methods of assessing whether students are meeting educational goals." 24 P.S. § 17-1719-A(5) (emphasis added). The proposed curriculum submitted with a charter school application must, *inter alia*, show how the applicant will offer comprehensive planned instruction to fulfill Chapter 4 requirements, how the particular subject areas will meet Pennsylvania standards, and how the applicant will deliver special education services to students with disabilities. *See In Re: Bear Creek Community Charter School*.

The Revised Application includes this mission statement: "To inspire students to think with judgment and communicate effectively in pursuit of academic excellence by providing a rigorous classics-based education." Among the six educational goals "[s]tudents will achieve the highest possible academic success and will meet or exceed the state's mandated level of proficiency as defined by the Pennsylvania System of School Assessment" and "[s]tudents will be at school and on time for classes."

A "curriculum" is defined in Chapter 4 of the State Board of Education regulations as: "A series of planned instruction aligned with the academic standards in each subject area that is

coordinated and articulated and implemented in a manner designed to result in the achievement at the proficient level by all students.” 22 Pa. Code § 4.3. A sufficient curriculum is one that is fully developed at the time the application is filed and that is reflective of full alignment with State standards in place at the time of application for those grades the charter school would offer in the first year of operation. As CAB has stated:

The curriculum of a school, any school, is one of the most significant building blocks of the educational program at that institution. To not have the curriculum completed and fully aligned shows a lack of adequate planning. As we have previously observed, a charter school’s failure to provide a sufficient curricular plan is a basis for denial of an application, and that plan must be fully developed at the time the application is filed, rather than being a goal or guideline that an appropriate curriculum will be developed later.

*In Re: Thomas Paine Charter School*, CAB Docket No. 2009-04, p. 9 (*Summit Charter School v. Pocono Mountain School District*, 316 A3d 196, 207 (Pa. Cmwlth. 2024)). “Planned instruction” is defined as “[i]nstruction offered by a school entity based upon a written plan to enable students to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.” *Id.* Pursuant to 22 Pa. Code § 4.11(h), it consists of at least the following elements:

- (1) Objectives of a planned course, instructional unit or interdisciplinary studies to be achieved by all students.
- (2) Content, including materials and activities, and estimated instructional time to be devoted to achieving the academic standards. Courses, instructional units or interdisciplinary studies of varying lengths of time may be taught.
- (3) The relationship between the objectives of a planned course, instructional unit or interdisciplinary studies and academic standards specified under § 4.12 and any additional academic standards as determined by the school entity.
- (4) Procedures for measurement of the objectives of a planned course, instruction unit or interdisciplinary studies.

An applicant’s failure to fully align curriculum to Pennsylvania standards, failure to demonstrate planned instruction for various grade levels and subject areas to be taught at the charter school, failure to differentiate the curriculum for students of varying ability levels, and failure to have an adequate plan to serve English Learners are all grounds for denial of a charter application. *Summit Charter School*, 316 A.3d 196 (citing *Joan Myers Brown Academy*, CAB Docket No. 2022-02).

Among the numerous specific uncorrected curriculum deficiencies in the Application (which are incorporated by reference by the Board from the District’s Application Report that is submitted in response to the initial Application) are insufficient details as to how the curriculum would be modified to meet the needs of all students including those with IEPs, gifted learners, and English Learners, as well as that the curriculum is not aligned with Pennsylvania standards on such topics as science, math, English Language Arts, history, computer science, business education, technology education, health, consumer science, visual arts, and music. District CR, 1m., Board Adjudication of Org. A., F.F. No. 25; District CR, 1g. Exh. 7, Dist. Admin. Eval. Report 2023, pp. 1399-1441. Little changed with the Revised Application. District CR, 2f., Board Adjudication of Rev. A., F.F. Nos. 33-34.<sup>5</sup>

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<sup>5</sup> In both versions, this Evaluation Report is highly detailed. It was authored by a group of district administrators with relevant qualifications and experience. See District CR, 1g. Exh.7, Dist. Admin. Eval. Report 2023, p. 1395. It was revised in response to the Revised Application, which noted “This evaluation report references both the original and revised applications for [the Applicant]. In most cases, minimal changes to the initial application were made in the revised application. As a result, many of the same considerations and concerns remain from the original application.” District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1146. A few examples of specific deficiencies found in the report are quoted here:

**English Language Arts Grades 6-8**

The Curriculum Essay English: Writing states that “writing must begin with a clear idea and end with the clear and persuasive communication of that idea to others” (VFCACS, 2023, p. 503). Yet in the curriculum program guide notes for grades 6-8, it states that students will write from notes and focus on retelling and summarizing in reference to the PA State Standard CC 1.4, a standard that speaks to students writing with an intended audience to develop structure. The curriculum guide is cut off at the beginning of the guide for this standard and thus not fully complete (VFCACS, 2023, pp. 1234-1235, 1261-1262, 1290). In the curriculum under composition for 6<sup>th</sup> grade, the curriculum notes that Composition will include “Notetaking and Outlines, Writing From Notes, Retelling Narrative Stories, Summarizing a Reference, Writing from Pictures, summarizing multiple



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references, inventive writing, formal, essay, and formal critique” yet there is not direct mention of how these types of writing will be addressed and does not delve into author’s purpose or structure (VFCACS, 2023, p. 786). The seventh grade curriculum states the same list, and the 8<sup>th</sup> grade adds citation styles with no detail (VFCACS, 2023, pp. 838, 882).

These defaults were not corrected in the Revised Application. *See* District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1157.

### **Science (in general)**

The “Curriculum Essay: Science” indicates that a “distinctive aspect of science at a classical school is then scientific knowledge for its own sake” (VFCACS, 2023, p. 515). This implies that scientific knowledge is acquired and taken at face value, without deeper investigation or evaluation of its validity, reliability, and contribution to the world. While other statements in the program guide suggest that students “will also develop a healthy skepticism” and “learn to see that there are certain questions that are not best addressed by the scientific method,” the application does not address how such issues or questions should or will be addressed. The program guide within the application also states that “we should point children to what is good, true, and beautiful,” without any clarification of what “good, true and beautiful” means or how that integrates with the scientific curriculum. Aspects of a balanced science education may fall outside of those descriptors at times, as discoveries and evidence gathered about the natural world may not always qualify as “beautiful” as described in this statement.

District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1165. (Comment unchanged from initial 2023 evaluation report.)

### **Social Studies (in general)** (Analyzing certain passages of the narrative for the section)

These passages are samples that indicate both a predisposition to Christian history, as well as one centered on an Anglo-European perspective, pervasive throughout the social studies curriculum. While words such as “representative events” are used, there is a lack of commitment to representation or multiple perspectives in the curriculum or recommended resources. Throughout this essay, there is no indication of how the program will incorporate the philosophies of “non-Western” civilizations throughout Asia or Africa.

District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1170. (Comment unchanged from initial 2023 evaluation report.)

### **Computer science (in general)**

The application includes no courses or curriculum that align with or meet the recommended Pennsylvania standards in Computer Science.

District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1185. (Comment unchanged from initial 2023 evaluation report.)

Finally, there are numerous references to specific standards that are unmet. For example, the section discussing **K-5 Social Studies** reveals:

In the “Classical Academy Alignment to Pennsylvania (PA) Standards - Grades K-8”, none of the Academic Standards for Civics and Government and Academic Standards for Economics are addressed.

District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, p. 1172 (Comment unchanged from initial 2023 evaluation report.)

First as discussed above, Applicant’s proposal to send special education students, or students who may be thought to need special education services, to the student’s home district for services, *see* District CR, 1a. Exh. 1, VFCACS Org. A., p. 101, is not permitted. This was not corrected in the Revised Application. *See* District CR, 2a. Exh. 1, VFCACS Rev. A. p. 103.

Second, regarding special education and EL programming for students, the Board found evidence of improper planning because staffing rates did not reflect the ability to provide individualized programming. As it stated in its Adjudication of the Revised Application, “[a]t the second hearing, the Applicant stated that they anticipated needing 2 special education teachers in year 1 for grades K-8 . . . Based on an enrollment of 675 students, that equates to a ratio of 1 special education teacher to serve 50 special education students, regardless of their disability, needs or grade level, which the Board finds to be evidence of improper planning.” District CR, 2f., Board Adjudication of Rev. A., F.F. No. 55; District CR, 1l., Hearing Transcript – 8/1/2023, NT 21. Further, also at the second hearing, the Applicant stated that it had not even accounted for hiring an ESL teacher in its planning. District CR, 2f., Board Adjudication of Rev. A., F.F. No. 56; District CR, 1l., Hearing Transcript – 8/1/2023, NT 22. Other shortcomings regarding services to EL students include a lack of detail on professional development to be provided to staff regarding this group’s needs; reference to New Jersey, not Pennsylvania standards; a willingness to provide document translation to students only “when possible”; and an intention to “rely on parent volunteers of different language backgrounds to collaborate in meetings, presumably to provide translation services, which is inconsistent with U.S. Department of Justice guidance.” *See* District CR, 2f., Board Adjudication of Rev. A., F.F. No. 65 (*citing to and agreeing with* the District CR, 2d. Exh.4, Dist. Admin. Eval. Report 2024, pp. 1203-1206). These are significant defects, concern

truly vulnerable students and establish a strong reason to deny the Revised Application. *See Summit Charter School v Pocono Mountain School District*, 316 A.3d 196 (Cmwlth. Ct. 2024).

Finally, there is also a concern as to whether Applicant would be sectarian or would promote religious instruction, which is prohibited.<sup>6</sup> To this, Applicant responds that its curriculum has been successful in High Point Classical Academy; however, that is a *private* school which its website defines as a “ministry of High Point Baptist Church.” *See* <https://www.highpointclassicalacademy.com/about>. That does not mean, however, that Applicant could not *also* operate a public charter school and certainly, where the topics are nonsectarian, the feasibility of drawing from successful programming cannot be discounted. Therefore, while there are curriculum-related bases for denying the Revised Application (*i.e.*, not meeting the needs of students with IEPs, gifted learners and English Learners, and not aligning curriculum with Pennsylvania standards on such topics as science, math, English Language Arts, history, computer science, business education, technology education, health, consumer science, visual arts, and music), CAB is not willing to conclude that merely because the Applicant also operates religious schools, the proposed school would, *de facto*, be one as well.

#### **Statutory Requirements of § 1719-A(6) (Admissions policy)**

The admissions policy provides that the school will be open to all students and will not specifically target students at risk of academic failure, nor will it have an admission preference for such students. Further, students identified as “at-risk” will be referred to the Child Study Team, who recommends additions to the student’s personal education plan. Admission will not be limited on the

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<sup>6</sup> Applicant contends that its Revised Application shows that it can provide a comprehensive learning experience to students of all backgrounds and cultures. The District’s criticism is that the Revised Application reflects a lack of “multiple perspectives” that preclude the nurturing of critical-thinking and global awareness. In response, Applicant asserts that the District’s attempts to cast it as “religious” or “narrow” in its viewpoint is misguided. It argues that its admitted emphasis on Western civilization does not mean that other views will be excluded and that it has stated it is not a Christian school. Arguably one could view this dispute as touching on whether Applicant has proposed an “innovative” curriculum. CAB need not resolve that issue because there are other bases to support its holding.

basis of intellectual ability, race, religion, or on any other ground that would be unlawful. There is no basis to deny the Revised Application for this factor.

### **Procedures Regarding Suspension and Expulsion**

Addendum K, of the Revised Application, provides, *inter alia*, the school administration “may suspend a student for up to ten (10) days provided the student has the opportunity for a meeting with the Chief Education Officer or his designee, during which the student is entitled to an opportunity for the student to explain his or her conduct. When a student has been recommended for expulsion, the Chief Education Officer and the Board will conduct an expulsion meeting, where a hearing officer, who is someone who has not been directly involved in the events of the disciplinary process leading to the recommendation of expulsion or any prior expulsion regarding that student.” The fact that this is not in the narrative, but in an addendum, would not appear to be a serious flaw. The Family Handbook containing the Student Code of Conduct, however, omits every other page, an error that existed in the original Application and was not corrected. More substantively, discipline could apparently be meted out for situations where students do not wear “traditional” hair styles, an undefined term that could be viewed as discriminatory. The Board was concerned that this raises potential equal protection and discrimination problems. CAB has genuine concerns about this, as well, but believes the prudent course would be to see if such problems would, in fact, arise.

### **Financial Plan**

The CSL does not require “specifics in the budget so long as the school board or upon appeal [CAB] can determine that the applicant is capable of providing a comprehensive learning experience for students.” *Central Dauphin School Dist. v. Founding Coalition, Infinity Charter School*, 847 A.2d 195, 202 (Pa. Cmwlth. 2004). The budget plan anticipates funding in excess of ten million dollars and expenditures of eight million dollars. It identifies the funding sources as

state general purpose aid, state and federal program revenues, grants, earned income, and charitable contributions, but provides no details. Indeed, it appears that there is *no startup budget for year zero*. See District CR, 11, Hearing Transcript – 8/1/2023, NT 48-49. Other defects include missing information on health care plans and coverage for staff; *Id.* at NT 86-87; insufficient budgeting for retirement benefits; *Id.* at NT 88-89; no repayment information for a planned start-up loan; *Id.* at NT 49-50, 85; underbudgeting for proposed health insurance, *Id.* at NT 87; and, failure to differentiate tuition rates for regular and special education students, *Id.* at NT 90-91. As stated by the Commonwealth Court:

Given the mandatory and material nature of health and retirement benefits, which contribute to a school’s ability to hire and keep teachers and administrators who support the school’s mission and enable it to provide the requisite comprehensive learning experiences required in Section 1717-A(e)(2)(ii) of the CSL, we conclude that a charter applicant must provide more than a bare, nonspecific pledge to provide these benefits. Certainly, a charter applicant may not evade its responsibility by conditioning provision of these benefits on marketplace vagaries.

*Summit Charter*, 316 A.3d at 215-16. The Revised Application is properly denied for failure to establish the requisite financial security.

### **Description of the Proposed Facility**

The application identifies a proposed location and letter of intent, along with projected lease payments. The District responds only that it does not explain how Applicant would accommodate all students and their food service needs. While the Revised Application does provide for free lunches via outside vendor contracts, there are no details. This appears to be a correctable issue because a detailed facility plan is not required under the CSL. *In Re: Appeal of Legacy Charter School*.

### **Compliance with Charter School Law**

The Application states that its school year will run on the same schedule as that of the West Chester Area School District, which provides for 185 days of classroom instruction for students

and 194 days for teachers, as well as a permitted number of holidays. Additionally, the Application provides the daily hours of operation for students and faculty. The District maintains it did not attach an actual calendar or 180 days of instruction or 900 hours per year of instruction at the elementary level or 990 hours per year of instruction at the secondary level, as required by 24 P.S. § 17-1715-A(9). These defects do not seem to be difficult to correct by giving assurances.

### **Professional Development Plan**

The Application indicates that the applicant will provide professional development sessions for teachers and training for effective use of technology. Hillsdale College's<sup>7</sup> Barney Charter School Initiative will provide ten (10) days of training prior to the school's initial opening, and three (3) days each summer thereafter. In addition, the proposed employee handbook has policies on discrimination and non-harassment. Moreover, one Board member is indicated as having extensive experience in running a charter school and will provide guidance. However, the plan does not discuss the topics to be addressed in training. While such a discussion would be useful, its absence is not fatal.

### **Provision of Criminal History Records and Official Clearance Statements**

Applicant does not have these records and relies on the holding in *Central Dauphin School Dist.*, 847 A.2d at 204, which quotes CAB, that “[b]ecause a charter school has not yet been established when an applicant seeks a charter, it is unreasonable and unrealistic to expect the charter application to contain the specific names and clearances for all proposed faculty and staff positions.” In addition, Addendum N to the Revised Application provides that background checks,

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<sup>7</sup> The Board noted in its adjudication of the Revised Application that Hillsdale is a “small Christian liberal arts college in southern Michigan that operates independently of federal funding.” District CR, 2f., Board Adjudication of Rev. A., F.F. No. 21 (citing <https://www.hillsdale.edu/information-for/undergraduate-admissions/>).

including fingerprinting, will be completed before employment begins. Thus, this is not a basis to deny the Revised Application.

### **Information on Liability and Insurance**

In the Application, Applicant states that it will obtain the best insurance rates through competitive bidding or by allowing the broker to shop rates consistent with the quality of coverage or through joining a consortium of charter schools that have already obtained competitive premiums. It plans on obtaining general liability insurance, directors and officers liability insurance, employee liability insurance, and other policies. While funds are earmarked in the proposed budget for maintenance and property liability insurance, there are no quotes and there are inconsistent statements regarding coverage and limits. District CR, 2a. Exh. 1, VFCACS Rev. A. pp. 98-99, 767-768. Given that funds are earmarked, the absence of actual rate quotes, while concerning, would be subject to updating.

#### **D. Does the revised application demonstrate that Applicant will serve as a model for other schools in the district?**

Applicant points out that it is not required to go “over and above” the district programs but merely provide for students and partners to have expanded choices, citing, *McKeesport Area Sch. Dist.*, 888 A.2d 912, 917-918 (Pa. Cmwlth. 2005). It asserts that the District’s standardized scores have declined and maintains that it can improve that with a more rigorous curriculum focusing on a classical education style<sup>8</sup> based on its successful implementation of twenty-three other schools around the country. However, nothing in the record supports its claim of declining test scores.

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<sup>8</sup> As noted in the Board Adjudication of Revised Application, “The following teaching methods are identified by Valley Forge as the cornerstone of classical education and will support mastery of the Pennsylvania standards: explicit and systematic phonics instruction; explicit English grammar instruction; ability and flexible groupings; utilization of primary source documents; teaching of study skills; and the Socratic Method.” District CR, 2f., Board Adjudication of Rev. A., F.F. No. 19; District CR, 1a. Exh. 1, VFCACS Org. A., pp. 8, 25-26, 57; District CR, 2a. Exh. 1, VFCACS Rev. A. pp., 8, 26-27, 56.

Rather, the assertion of need is that the Charter School would serve as a “choice to families in [the School District],” yet also acknowledging that families in the school district already have brick and mortar charter school choices in nearby Collegium Charter School (authorized by the District) and Renaissance Academy Charter School (authorized by Phoenixville School District). District CR, 2a. Exh. 1, VFCACS Rev. A. p. 77. Moreover, the refusal to correct *or even attempt to correct* the numerous defects in the initial Application when submitting the Revised Application seriously undermines its claim that it can serve as model for other public schools.

## **V. Conclusion**

For all of the reasons stated above, which include that the Revised Application demonstrates only minimal community support, limited financial planning, especially for the startup; lack of any real details on the EL and special education screening and curricula and insufficient evidence on how the school would serve as model for other schools in the District, and giving due consideration to the findings of the District, the evidentiary record, and the requirements of the CSL, the following order shall enter:



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

VALLEY FORGE CLASSICAL	:	
ACADEMY CHARTER SCHOOL,	:	
Petitioner,	:	
	:	CAB Docket No. 2024-02
v.	:	
	:	
WEST CHESTER AREA SCHOOL	:	
DISTRICT,	:	
Respondent.	:	

**ORDER**

**NOW**, this 20<sup>th</sup> day of March 2025, based on the foregoing findings of fact, conclusions of law, discussion and vote of the Board<sup>9</sup>, it is hereby **ORDERED** that the appeal of Valley Forge Classical Academy Charter School is **DENIED**, and the January 22, 2024, decision of the West Chester Area School District School Board to deny the revised application for a charter is **AFFIRMED**.

For the State Charter School Appeal Board

/s/ Helena FG Liddle

Dr. Helena Gaspar-Liddle  
Vice-Chair

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<sup>9</sup> At CAB’s meeting on February 18, 2025, Members Liddle, Alexander, and Kennedy voted to deny the appeal. Members Killion and Aichele voted to grant. Members Fitterer and Faustman were absent.