

**HARRISBURG CITY SCHOOL DISTRICT
BOARD OF SCHOOL DIRECTORS**

**IN RE: ARTS TO THE CORE CHARTER SCHOOL
2016 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The Board of School Directors (“School Board”) adopts this Adjudication regarding the 2016 Charter School Application filed with the Harrisburg City School District (“School District”) by the applicant for the Arts to the Core Charter School (“Applicant” or “Charter School”). For the reasons that follow, the Application is denied.

I. Findings of Fact

1. On or about November 1, 2016, the School District received the 2016 Application filed by the Applicant (“Application”). (ACCS 1-1752).¹
2. The School Board held two public hearings on the Application, the first occurring on December 13, 2016, and the second occurring on January 26, 2017. The public hearings were each stenographically recorded.²
3. The School Board has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The Application including all submitted attachments (ACCS 1-1752);

¹ The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix “ACCS.”

² The Notes of Testimony from the two hearings will be referred to as “12/13/16 N.T. ___” and “1/26/17 N.T. ___”, respectively.

- b. Supplemental documents received from the Applicant by the November 28, 2016, deadline (ACCS 1753-1757);
- c. Proof of publication of notice of the first hearing (ACCS 1758-59);
- d. Charter School Exhibit No. 1 admitted at the December 13, 2016, hearing (ACCS 1760);
- e. School District Exhibit No. 1 admitted at the January 26, 2017, hearing (ACCS 1761-62);
- f. School District Exhibit No. 2 admitted at the January 26, 2017, hearing (ACCS 1763-68);
- g. School District Exhibit No. 3 admitted at the January 26, 2017, hearing (ACCS 1769-85);
- h. School District Exhibit No. 4 admitted at the January 26, 2017, hearing (ACCS 1786-1801);
- i. School District Exhibit No. 5 admitted at the January 26, 2017, hearing (ACCS 1802-03);
- j. The concluding document filed by the Applicant (ACCS 1804-21);
- k. November 17, 2016 letter to the Applicant with accompanying School Board policy (ACCS 1822-32);
- l. November 29, 2016 confirmation email from the Applicant (ACCS 1833-34);
- m. February 13, 2017 letter to counsel for the Applicant regarding the vote on the Application (ACCS 1835);
- n. Proof of publication for the January 26, 2017 hearing (ACCS 1836-37); and
- o. Transcripts from the hearings held on December 13, 2016 and January 26, 2017.

General Information

4. The name of the proposed charter school is the Arts to the Core Charter School. (*See e.g.* ACCS 7).
5. The Charter School seeks a five-year charter for the school years 2017-18 through 2021-22. (ACCS 7).
6. The Charter School plans to open in year 1 with Kindergarten through grade 4 with 300 students. Thereafter, the Charter School would offer K-5 with 360 students in year 2; K-6 with 420 students in year 3; K-7 with 480 students in year 4; and K-8 with 540 students in year 5. (ACCS 7, 39, 59).

Curriculum and Educational Programming

7. The Applicant intends to incorporate the arts in the educational programming of the school in three different ways: (1) through arts as stand-alone curriculum subjects (i.e. “specials”); (2) through arts-enhanced curriculum, which means the employment of art projects and skills to stimulate student engagement in content learning; and (3) through arts integrated curriculum wherein students demonstrated understanding through arts forms. (ACCS 29-30; 1/26/17 N.T. 70-73).
8. The Charter School will offer instruction in dance, music, theatre, visual arts and creative writing. (ACCS 29).
9. According to the Applicant’s representations in the section identifying the Kindergarten curriculum: “Within one year of enrollment at [the Charter School] each student will enroll in at least one of the following programs at [the Charter School]: music, theater, visual arts, dance or creative writing.”³ (ACCS 15). The Applicant’s testimony at the hearing indicated

³ At the hearing, the Applicant indicated creative writing would not be taught as a stand-alone course. (1/26/17 N.T. 69).

that students would rotate through stand-alone classes in visual arts, music, dance and theater on a quarterly basis. (1/26/17 N.T. 66, 69).

10. The School District administration presented a report on the curriculum and instruction aspects of the Application at the January 26, 2017 hearing. (ACCS 1763-1768; 1/26/17 N.T. 32-60). Observations by the School District administration in that regard are found to be credible and supported by the record, and are highlighted in pertinent part herein.
11. The scopes and sequences provided in Appendix J do not include, and are not aligned with, any of the applicable Pennsylvania Core English Language Arts (“ELA”) and Mathematics Assessed Anchors and Eligible Content Standards, which are described in School District Exhibits 3 and 4. (ACCS 1763, 1769-1801).
12. Two of the resources proposed to be used – Reading Wonders and Everyday Math – to implement the curriculum are not aligned to the PA Core Assessed Anchors and Eligible Content Standards. (ACCS 1764).
13. Given the arts-centered focus of the school, the School Board would have expected to see extensive curricular documents explaining the instructional planning for both stand-alone arts courses as well as the arts integration in the core subject areas. Such planning was not evident.
 - a. The scopes and sequences for the core subject areas include a section called “arts integration”, but the information included in those sections is generic and repetitive, and does not break down how the arts specifically will be integrated into the specific units or lessons in those grade levels or what teachers are supposed to include in their lesson planning to provide the integration. Using the Kindergarten scope and sequence for ELA as an example, the various 3-week unit plans contain

repetitive and generic references to how arts will be integrated into instruction without any guidance provided to the teacher about what songs should be integrated and what common celebrations should be reviewed and sung. (*Cf.* ACCS 1104, 1106, 1107, 1109, 1111, 1112). The ELA scopes and sequences for each grade level do not include any visual arts, dance or theater integration.

- b. The generic references to the arts integration within the core subject areas do not include any references or alignment with the Pennsylvania Arts or Music standards. (ACCS 1763).
- c. The scopes and sequences for Art do not address any of the specific Pennsylvania Standards in those subject areas. (ACCS 1086-1095). While the scope and sequence does reference the headings of the Pennsylvania Standards in Arts and Humanities (e.g. “9.1 Production, Performance and Exhibition of Dance, Music, Theatre and Visual Arts”), sub-standards exist under each of those headings that provide specific direction for what is to be included in order to meet the Pennsylvania Standards in Arts and Humanities. *See* http://static.pdesas.org/content/documents/Academic_Standards_for_the_Arts_and_Humanities.pdf. None of those sub-standards are addressed to establish that the Arts curriculum is fully aligned with the Pennsylvania Standards in Arts and Humanities.
- d. The Music scope and sequence (ACCS 1234-1245) does not address or include references to any of the Pennsylvania Standards in Arts and Humanities. No detail about what instruction will occur within any music unit in any grade level is provided. In addition, the Music scope and sequence indicates that students will

receive music instruction for 60 minutes a week for 36 weeks” (ACCS 1235), which does not align with the daily schedule provided by the Applicant, which shows a dedicated arts class for one hour per day, or the Applicant’s representation that students will take a dedicated music class for a quarter of the school year (presumably in the daily, one-hour arts class).

- e. Appendix J, which contains the Applicant’s proposed curricular documents, does not contain a scope and sequence for the stand-alone classes in theater or dance in any grade level. (ACCS 1086-1336; 1/26/17 N.T. 67-69).
- f. The curricular documents “do[] not outline the art-based instructional choices available to content teachers for [arts-enhanced curriculum] implementation, nor provide the rational for these instructional choices. There are no protocols/processes academic and art teachers will engage in to monitor progress and refine instruction for each arts-enhanced lesson and/or unit.” (ACCS 1767).
- g. Inequities exist in the common planning time for teachers in Kindergarten and 1st grade compared to common planning time for teachers in grades 2-4 in order to craft, revise and practice the concepts/skills to be taught during each arts-integrated unit. (ACCS 1767).

14. The Health Safety and Physical Education Scope and Sequence (ACCS 1096-1100) does not include or align with all of the Pennsylvania Standards in the grade levels to be served as outlined in http://static.pdesas.org/content/documents/Academic_Standards_for_Health_Safety_and_Physical_Education.pdf.

15. No assessment calendar is provided to outline clear, established dates for administration of diagnostic exams, benchmarks, state assessments or other locally developed common

assessments. (ACCS 1763). Contrary to the “facts” set forth in Paragraph 18.c. in the Applicant’s Concluding Document (ACCS 1809), the 2017-2018 Draft Calendar submitted by the Applicant (ACCS 1038) is not an assessment calendar. The only assessment referenced in the Calendar is the PSSA testing window.

16. The Applicant did not provide any lesson plans, locally-developed assessments or any guide for how and when newly hired teachers are expected to develop such lesson plans or locally-developed assessments.
17. The Applicant does not describe the processes, procedures and protocols the school will use to maintain a positive school climate to keep student discipline at the indicated levels. (ACCS 1767). Although the Application makes reference to the implementation of a Response to Intervention program in every grade level (ACCS 26, 50), the Applicant does not identify the moderate or intensive interventions that will be utilized in Tiers 2 and 3. (ACCS 51).
18. The Applicant anticipates a population of students that mirrors the School District’s demographics of 12.44% English Language Learners (“ELLs”), which equates to an enrollment of at least 37 ELLs in year 1 of the Charter. (ACCS 28, 59).
19. The Applicant has utilized and paid for the services of the Hispanic Community Center to solicit pre-enrollment forms for the proposed school. (ACCS 634).
20. The Applicant did not submit a Language Instruction Plan describing the program model(s) that will be utilized to provide services to ELLs, and did not provide a discussion in the narrative regarding the program model and services to be offered to ELL students. Although a proposed “Board of Trustees Policy” for ELLs is included in the Application (ACCS 1625-1632), the policy does not provide any specific information about which ELL

instructional models would be utilized in the Charter School. (ACCS 1766). When asked at the hearing what program model would be utilized for ELL students, the applicant responded: “We don’t remember it offhand. It’s defined someplace.” (1/26/17 N.T. 84).

21. The Applicant then testified at the hearing that ELL students are going to be taught reading in their native language first before they begin learning to read in English. (1/26/17 N.T. 85). Jaimie Foster, the School District’s Chief Academic Officer, responded to this statement by the Applicant: “Here in the state of Pennsylvania, students are not to be taught in their native language in an ESL program or in an ELL program. They must be instructed in English.” (*Id.* at 86).
22. Nothing in the record specifically outlines how English as a Second Language (“ESL”) teachers will support ELL students throughout the day in a classroom setting.
23. The proposed school schedule submitted by the Applicant raises significant concerns regarding the Applicant’s knowledge of, and expectations for, ELL programming. The only time allotted for ELL instruction with a certified ESL teacher is before school starts and during the time that students in Kindergarten through grade 4 would have recess. (ACCS 1760; 1/26/17 N.T. 91). The Applicant’s plans for the start of school and what students will be doing between the hours of 7:30-8:30 a.m. changed from the time of submission of the Application to the time of the second hearing. (Cf. ACCS 38-40; 1/26/17 N.T. 88-91). Instructional time for all students begins at 8:30 a.m. (1/26/17 N.T. 90), so ELL students would need to arrive prior to their non-ELL peers in order to receive direct ELL instruction. Remediation would also be provided to students during that timeframe, so it is not known how or when ELL students also needing remediation would receive remedial services during the school day. The Applicant admitted that the other ELL

instructional block scheduled during recess would result in ELL students in K-4 missing recess. (1/26/17 N.T. 93).

24. The Application indicates that there will be no more than 10 students assigned to each ELL class, and that the Charter School will deliver a minimum of six hours of daily ELL instruction. (ACCS 28). It is now known how two ESL teachers and 1 ELL Coordinator serving at least 37 ELL students over five grade levels in at least 3-4 ELL classes could provide direct instruction or other instruction through any other types of ELL programming models with the schedule proposed by the Applicant.

25. The Charter School proposes to be a “full-service, community school”:

One of the key components of the Founding Coalition’s vision for [the Charter School] is the creation of a portfolio of partnerships with local community service organizations and non-profits that will aid [the Charter School] in addressing a variety of student needs that the school may be less equipped to handle on its own. As an example, because students with undiagnosed or inadequately treated vision impairments will likely struggle in school, a cooperative relationship between [the Charter School] and one or more community providers of vision diagnostic and corrective services could improve the general health of [the Charter School’s] student population (and perhaps even that of student family members), while directly enhancing learning. Empirical research confirms that children and the educational institutions that serve them benefit from the development of a full-service, community school model.

(ACCS 52).

26. When asked about the community school proposal at the hearing, the Applicant affirmed its intention to “enter into joint ventures with the providers of [wrap around services or mental health or other community-based health services] that they’d be able to use our facility.” (1/26/17 N.T. 80). In addition, the Charter School would make its facility available to service organizations, art organizations and others so that the facility is serving the community in other ways during school hours. (*Id.* at 81).

27. The Applicant does not yet know what the community needs in terms of what the Charter School is going to offer in the way of a community school. (*Id.*). The Application has not yet entered into any partner to provide vision services or other wrap around services to students and their families. (1/26/17 N.T. 83).

Financial Planning and Professional Development

28. The proposed school calendar does not contain any information regarding when professional development (“PD”) or pre-service training would be offered for the staff. (ACCS 1038).

29. General topics for PD are listed in bullet points on ACCS 112, but none of the topics are discussed with any specificity. The Applicant does not disclose or discuss when specific PD opportunities will occur for the non-A+ training and who will attend each PD opportunity.

30. Instead of participating in PSERS, employees of the Charter School will be offered the opportunity to participate in a 403(b) retirement plan. (ACCS 83, 87). The 403(b) retirement plan in which Charter School employees may participate does not yet exist and has not yet been approved by PSERS. (ACCS 892).

31. The Applicant’s budget makes a number of material assumptions that are not supported by the record in this matter:

- a. The Applicant expects to contract with a third party food service vendor and operate a “revenue and expense neutral” food service program. (ACCS 90, 120). The budget submitted by the Applicant does not include any food service expenditures for the procurement of a vendor or the purchase of food from the vendor; however,

the budget includes \$40,000 in food service revenue even though no expenditures are included. (*Cf.* ACCS 83 and 90, 760 and 762).

b. While money is included in the budget for the cost of services from A+ staff for professional development (ACCS 87), the budget does not include any expenditures for the necessary travel costs associated with the staff's participation in A+ training, as set forth in the documents submitted from A+ in the Application, or in any other professional seminars or workshops referenced in the Application. (ACCS 761).

i. According to information included in the Application from A+, the extensive professional development opportunities provided by A+ in year 1 to the Charter School's staff will occur on three occasions: first on-site at the Charter School for a planning meeting and a pre-institute; second, at a 5-day institute in the summer in North Carolina; and third, during an on-site visit with two back to back days of professional development at the Charter School. (ACCS 112, 810-11).

ii. The "entire school staff" will attend the 5-day institute in North Carolina. (ACCS 810-11).

iii. According to the A+ literature, schools participating in the 5-day Institutes should anticipate additional costs for board and lodging, which should be estimated at "\$100-125 per day, \$500-\$625 total, for each person attending." Those amounts do not include reimbursement for mileage and travel expenses, which would be in accordance with Charter School policy. (ACCS 811). The Travel Expense policy included in the Application

reflects the Charter School's commitment to reimburse staff for meals, travel costs, rental cars, etc. (ACCS 977-86, 1017). For the Charter School to have its "entire school staff"⁴ participate in the A+ Institute, as represented in the Application, additional expenditures of at least \$16,500-\$20,625 for board and lodging, plus additional amounts for mileage and travel expenses, should have been included in the budget.

- iv. After initially admitting that the staff of the Charter School would travel to North Carolina for the Institute, Mr. Caplan, one of the Applicant's representatives, then changed his testimony and claimed that A+ would be sending all of its trainers to the Charter School for the Institute, rather than having the staff travel to North Carolina (1/26/17 N.T. 104-107); however, the documents submitted from A+ in the Application did not support the latter assertion that A+ would be coming on-site for the Institute and absorbing the travel costs of A+ employees to do so.
 - v. "Staff members will be permitted two (2) paid days off each school year to attend a professional seminar or workshop designed to further teaching and leadership skills." (ACCS 112). No expenditures appear in the budget for mileage or travel costs associated with these opportunities, other than travel for the principal. (ACCS 761).
- c. The Application indicates that the Charter School will contract with a transportation vendor for special events and to ensure special education students are transported

⁴ The School District assumes that, at the very least, all teachers, coaches, counselor, principal, Special Education Coordinator, ELL Coordinator and curriculum coordinator would attend as listed on ACCS 728, whereas folks in the business office and support staff may not attend. For purposes of this calculation, the 33 instructional and administrative positions identified in year 1 on ACCS 728 were assumed to attend.

in accordance with their Individualized Education Plans. (ACCS 119). The budget, however, does not include any contracted transportation costs to cover any of the travel costs noted above for professional development; field trips for any students to the various art venues and off-site educational opportunities noted throughout the Application; or any specialized transportation needed for special education students. (ACCS 90, 761).

- d. After school program revenue of \$25,000 is included in the budget but there are no corresponding expenditures for after care programming in the form of wages or other expenses. (*Cf.* ACCS 83 and 86, 760).
- e. The proposed ending fund balance of \$63,419 is not sufficient to make up the deficiencies noted above. (ACCS 93, 763).

Governance Issues

- 32. Articles of Incorporation filed for Arts to the Core Schools, Inc., include a dissolution process should the Charter School have to close. (ACCS 815). The dissolution process does not comply with the requirements in 24 P.S. § 17-1729-A(i).
- 33. Bylaws submitted for the Charter School indicate that trustees of the Charter School's Board may be removed at any time, with or without cause, by a majority of the board members whenever the best interests of the Charter School are served by the removal. (ACCS 141).

II. Discussion

The Charter School Law ("CSL"), Act of June 19, 1997, P.L. 225, as amended, 24 P.S. §17-1701-A *et seq.*, 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 addresses the issues required by the CSL; 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); 53 Pa. C.S.A. § 303(2).

The CSL requires charter school applicants to address the following issues in their applications:

1. The identity of the applicant;
2. The name of the proposed charter school;
3. The grade or age levels served by the school;
4. The proposed governance structure, 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. An admission policy and criteria for evaluating the admission of students that complies with the CSL;
7. The procedures that will be used regarding the suspension or expulsion of pupils;

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 that will be made for auditing the school;
10. Procedures to review parent complaints regarding the operation of the school;
11. A description of and address of the physical facility in which the charter school will be located, the ownership of the facility, and the lease arrangements;
12. Information on the proposed school calendar, including the length of the school day and school year;
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 student in extracurricular activities with the school district;
15. A report of criminal history record for all individuals who shall have direct contact with students;
16. An official clearance statement from the Department of Public Welfare; and
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. In addition, cases interpreting these requirements from the State Charter School Appeal Board (“CAB”) and the appellate courts provide additional parameters for the School District’s review.

Against this backdrop, the School Board examines the 2016 Application.

III. Analysis Under the CSL

A. The Applicant Has Not Established That It Has Properly Planned To Provide Comprehensive Learning Experiences To Students Pursuant To The Adopted Charter.

The CSL requires charter school applications to demonstrate “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.” 24 P.S. § 17-1717-A(e)(2)(ii). A careful review of the Application establishes that the Applicant has not demonstrated, based upon its support and planning, the capability of providing comprehensive learning experiences to students under the standards articulated by CAB and the appellate courts in Pennsylvania.

Governance Structure

A charter school must be organized and operated as a non-profit entity. 24 P.S. § 17-1703-A. To determine whether a charter school will be operated in accordance with the CSL, the appellate courts in Pennsylvania require a review of several different types of documents: the articles of incorporation filed by the applicant; the proposed Bylaws of the school; and the management agreement, if any, between the applicant and any proposed management company. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 407-408 (Pa.Cmwlt. 2003).

In this case, the Applicant is not proposing to utilize the services of a management company to operate the school. Two issues exist, though, regarding the Articles of Incorporation and the Bylaws. The Articles of Incorporation filed with the Pennsylvania Department of State sets forth a dissolution process for the assets of the Charter School that is not in compliance with the CSL, specifically 24 P.S. § 17-1729-A(i). That language calls into question the Applicant’s knowledge of requirements applicable to Pennsylvania charter schools in the CSL.

The Bylaws permit the Board of Trustees of the Charter School to remove other trustees, with or without cause, through a simple majority vote. Such a provision calls into question the governing standards of a public Charter School, where trustees could be removed simply for voicing a contrary opinion from the majority of the board or disagreeing with actions of the other board members. There does not appear to be any reason for such a “without cause” provision, and it raises concerns surrounding the independence of individual members to make decisions for the entity and whether members who cast unpopular or dissenting votes or voice contrary opinions will simply be voted off the Board. The “without cause” provision is not in accordance with the CSL or the operation of a public entity.

Curriculum and Educational Program

The proposed curriculum for a charter school 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. *Bear Creek Community Charter School*, CAB No. 2003-3. This is required in order to show how the proposed charter school will offer comprehensive learning experiences to its students as required under Section 1717-A(e)(2)(ii). For the following reasons, the Applicant has not fulfilled this burden.

“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.” *Thomas Paine Charter School*, CAB No. 2009-04, at 9. Section 4.4(a) of the State Board of Education regulations, 22 Pa. Code § 4.4(a), applies to charter schools. 24 P.S. § 17-1732-A, n.8. That regulation provides as follows: “It is the policy of the Board that the local curriculum be designed by school entities to achieve the academic standards

under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.” 22 Pa. Code § 4.4(a). A curriculum is defined by 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. Planned instruction is defined as: “Instruction 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.*

A charter school applicant’s failure to submit curricular materials that establish the planned instruction required by the State Board of Education regulations for the grade levels to be served by the applicant is a basis for denial of the application. *Allentown Engineering Academy Charter School v. Allentown School District*, CAB No. 2014-01, at 16-18. The charter school’s curricular plan must be fully developed at the time the application is filed. *Environmental Charter School at Frick Park*, CAB No. 2007-05, at 6-7. In addition, the complete curriculum plan must be submitted to determine if the proposed charter school could be a model for other public schools. *Duquesne Charter School*, CAB No. 2013-01, at 9 (citing *In Re: Environmental Charter School*, CAB No. 1999-14, at 21). An applicant would not be a model for other public schools if the curriculum submitted was not fully developed. *Duquesne Charter School*, CAB No. 2013-01, at 12.

To meet the definition of “curriculum” in the State Board of Education regulations, the curricular documents submitted must include the indicators of planned instruction set forth in the regulations, including resources and assessments that will be utilized in each subject area. *Spartansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 33. The documents must establish a program that is fully aligned with Pennsylvania

standards; if PA Core Standards for the appropriate grade levels are missing, or if the curricular documents cite to standards in use in other States or academic standards that do not exist in Pennsylvania, the curricular documents are not fully aligned. *Id.*, at 35-37. The curricular documents submitted must also give an idea of “how the teacher of the course is to lead the students through the course or gauge whether students understand the concepts and have attained the competencies at the heart of the course.” *Id.*, at 33. The resources and materials to be used in each course must be age-appropriate for the grades to be served by the charter school. *Id.*, at 33-35. Failure to use age-appropriate material creates barriers to learning. *Id.*, at 35.

The curricular materials submitted by an applicant must also address the nontraditional elements of the Charter School and how those elements will be integrated into the curriculum; failure to do so will render the curriculum insufficient. *In re Appeal of Community Service Leadership Development Charter School*, CAB No. 2010-02, at 11 (citing *In re David P. Richardson Academy Charter School*, CAB No. 2001-08). For example, where an applicant touted the use of hands-on learning outside the classroom, CAB expected to see lesson plans or instructional timelines to indicate where and how those themes and hands-on learning would be integrated into the charter school’s education programming, and found fault with the applicant where the two lesson plans provided did not reflect any such hands-on learning outside the classroom. *Spartansburg Community Charter School*, *supra*, at 39. Further, if an applicant represents that a theme will be integrated into the curriculum, evidence of such integration in the overall curriculum must be apparent from the curriculum maps or documents submitted. *Id.*, at 39-40.

Here, the Applicant has not taken sufficient steps to provide evidence of planned instruction that meets and is aligned with all of the Pennsylvania Standards in every subject area

and grade to be offered in year 1 of the charter. As detailed in the factual findings above, various standards are not addressed in the scopes and sequences submitted for ELA, Math, Art, Music and Health, Safety and Physical Education. No scope and sequence was provided for theatre or dance, both of which are courses proposed to be taught on their own, separate and apart from other courses including gym. The Applicant did not provide an assessment calendar or provide any sort of detail to guide teachers in the development of local assessments in any subject area. In terms of behavioral support, the Application provides few details for how the Applicant intends to maintain a positive school climate or implement the Response to Intervention program proposed in the Application.

One of the non-traditional elements of the school, which also appears to be the main focus of the Charter School's programming, is the proposed arts integration and enhancement throughout the programming along with the stand-alone arts courses. The School District administration found those areas to be the curricular areas least developed in the Application, and the School Board agrees with that finding.

The Charter School also proposes to be a "full-service community school," which is described by the Applicant as one of the "key components of the Founding Coalition's vision" for the Charter School. Yet, the Applicant has not developed any partnerships for the vision services or other wrap-around services to be provided to students and their families in a community school model, and does not have any sense for what the community needs in that regard, even though the school is proposed to open in less than five months for the start of the 2017-2018 school year.

All of these observations cause the School Board to conclude that the Applicant has not established that it is prepared, in terms of curriculum and planning, to offer a comprehensive

learning environment to students at the proposed school or comprehensive planned instruction to fulfill the mandates of Chapter 4.

ESL

Charter schools are required to “provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standard under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction.” 22 Pa. Code § 4.26. The Basic Education Circular published by the Pennsylvania Department of Education (“PDE”), *Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL)*, 22 Pa. Code § 4.26, states that each local educational agency must have a written Language Instructional Program that addresses key components, including a process for identification, placement, exit and post-exit monitoring; instruction model used; curriculum aligned to PA standards; and administration of annual proficiency and academic assessments.

In addition to the curricular deficiencies noted above, the School District administration also found concerns, which the School Board shares, with the lack of a specific Language Instruction Plan for the Charter School as set forth in the Basic Education Circular. The proposed ESL services, support and staffing plan are not compliant with Pennsylvania requirements and guidelines issued by PDE, or the representations in the Application. The Applicant could not provide information about the proposed instructional models to be used to deliver instruction to ELL students. In addition, the Applicant’s staffing plan to serve ELL students was not feasible, in comparison to the representations in the Application. For example, the proposed ESL staffing

coupled with the Charter School's proposed schedule would not support delivery of a minimum of six hours of daily ELL instruction, as described in the Application.

The Applicant expects to serve a significant ELL population, and has marketed itself to the Hispanic community in Harrisburg, but has not provided evidence that it is ready and prepared to serve this population of students. The manner in which the Applicant proposes to serve ELL students, particularly in terms of when direct instruction would be provided to ELLs, is inequitable and possibly discriminatory and would preclude ELL students from having the same opportunities as their peers simply because of their national origin and/or English language skills. These concerns are additional deficiencies in the Charter School's planning.

Financial Planning

An item that must be addressed in the application and which is relevant to the determination whether the proposed school has the capacity to provide comprehensive learning experiences pursuant to Section 1717-A(e)(2)(ii) is the school's financial planning. *Bear Creek Community Charter School*, CAB No. 2003-3. A charter school is required to submit a budget that provides a sufficient basis from which to conclude that the charter school has considered fundamental budgeting issues and has determined that it will have the necessary funds to operate. *Thomas Paine Charter School*, CAB No. 2009-04, at 12; *Voyager Charter School*, CAB No. 2005-09. Deficiencies in the budget submitted by the applicant can be grounds to reject an application under Section 1717-A(e)(2)(ii). *Bear Creek Community Charter School*, CAB No. 2003-3.

Several concerns are noted above with the Applicant's financial plan. Some fundamental budgeting omissions have been made, relative to the Applicant's proposed programming, that would cause the Applicant to engage in deficit spending if it were to provide the programming

suggested in the Application. These issues are an additional deficiency in the Applicant’s planning to offer comprehensive learning experiences to students.

In addition, the Applicant is proposing to offer a 403(b) plan to all employees, but such a plan does not currently exist and has not been approved by PSERS. The CSL states as follows: “All employes of a charter school shall be enrolled in the Public School Employees’ Retirement System in the same manner as set forth in 24 Pa.C.S. § 8301(a) (relating to mandatory and optional membership) unless *at the time of the application for the charter school* the sponsoring district or the board of trustees of the charter school has a retirement program which covers the employees . . .” 24 P.S. § 17-1724-A(c) (italics added). The Applicant simply does not have an alternative retirement program in place *at the time of the Application* that covers prospective employees of the Charter School. Until such time as a 403(b) plan is approved for the Charter School, the Applicant must plan to participate in PSERS, and has not properly budgeted to do so.

For all of these reasons, the School Board finds that the budgetary planning by the Applicant is deficient.

B. The Application Does Not Consider All Of The Information Required Under Section 1719-A.

Section 1719-A of the CSL requires the charter applicant to include certain information in its application. The School Board believes that the Applicant has failed to include or properly address several items of information as required in this section of the CSL.

1. Section 1719-A(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.

The proposed governance structure of the Charter School is deficient, as discussed in more detail above.

2. Section 1719-A(5) – Mission And Goals Of The Charter School, The Curriculum To Be Offered And The Methods Of Assessing Whether Students Are Meeting Educational Goals.

The School Board fully discussed its conclusions about the Charter School's proposed curriculum and programming in part A above and reiterates that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students.

3. Section 1719-A(9) – The Financial Plan For The Charter School

The Applicant's financial planning is deficient, as discussed more fully above.

4. Section 1719-A(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.

While the Applicant submitted a proposed school calendar and proposed schedule setting forth the length of the school day, the Applicant's testimony indicated that the length of the school day is in flux. It is not clear at this point when school would begin for all students or what activities would occur between the hours of 7:30 a.m. and 8:30 a.m.

5. Section 1719-A(13) – The Proposed Faculty And A Professional Development Plan for the Faculty Of A Charter School.

The Applicant did not provide a PD plan that addressed how the Charter School will provide initial and ongoing training to teachers and other staff. No detail was provided about the knowledge and skills that would be addressed at any point during the school year in order to implement curricular programs proposed by the Charter School that meet the Pennsylvania standards set forth in Chapter 4 of the State Board of Education regulations. This is particularly important in the first year of operation when all of the staff will be new and many, if not all, of the staff would not have experience implementing the unique curricular and educational focus of the school. The School Board recognizes that the A+ training will encompass a large part of the PD, the Applicant failed to provide a calendar or narrative showing when the A+ training would occur,

where it would occur or how teachers would receive sufficient information and training to integrate the arts into their classrooms starting with the first day of school. While the narrative identified several other areas in addition to the A+ training that would be addressed through PD, the Applicant never disclosed when such opportunities would occur or any specific details about the programming that would be provided or from whom. Also, no teacher induction plan was provided. These are deficiencies in the Application. *See e.g. New Castle Arts Academy Charter School v. New Castle Area School District*, CAB No. 2014-14 (finding sufficient a professional development plan that contained topics, projects/outcomes, responsible parties and standards tied to the National Staff Development Council’s standards for staff development).

D. The Extent To Which The Charter School May Serve As A Model For Other Public Schools.

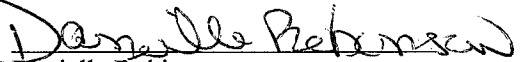
Pursuant to Section 1717-A(e)(2)(iv) of the CSL, the School District must evaluate the Charter School’s Application with regard to the “extent to which it will serve as a model for other public schools.” 24 P.S. § 17-1717-A(e)(2)(iv). “The failure of a charter school applicant to provide a sufficient curriculum plan has been found to be a basis for the denial of an application because it is evidence that the proposed charter school could not be a model for other public schools, as required under section 1717-A(e)(2)(iv) . . .” *Spartansburg Community Charter School, supra*, at 31 (citations omitted). Upon examination and evaluation of the deficiencies in the Application identified above, the School Board concludes that the Applicant does not yet have the capacity to serve as a model for other public schools in Pennsylvania.

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ORDER

For the reasons set forth above, the Application to create the Arts to the Core Charter School is hereby **DENIED**.

The applicant may appeal or take other action with respect to this decision in accordance with the procedures set forth in 24 P.S. § 17-1717-A(f)-(i).


Danielle Robinson
President