

**SCHOOL REFORM COMMISSION
SPECIAL PUBLIC MEETING
RESOLUTION SUMMARY**

FEBRUARY 22, 2018

I. SCHOOL REFORM COMMISSION

SRC-1 (Updated 2.22.18)

Proposed Action on New Charter Application – Antonia Pantoja Preparatory Charter School

WHEREAS, on or before November 15, 2017, the applicant for Antonia Pantoja Preparatory Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 29, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 925 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

SRC-2 (Updated 2.22.18)

Proposed Action on New Charter Application – APM Community Charter School

WHEREAS, on or before November 15, 2017, the applicant for APM Community Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 10, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 624 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

SRC-3 (Updated 2.22.18)

Proposed Action on New Charter Application – Eugenio Maria de Hostos Preparatory Charter School

WHEREAS, on or before November 15, 2017, the applicant for Eugenio Maria de Hostos Preparatory Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 29, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 850 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

SRC-4 (Updated 2.22.18)

Proposed Action on New Charter Application – Franklin Towne Charter Middle School

WHEREAS, on or before November 15, 2017, the applicant for Franklin Towne Charter Middle School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 22, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with Grades 6-8 starting in the 2019-2020 school year with a maximum enrollment of 450 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

SRC-5 (Updated 2.22.18)

Proposed Action on New Charter Application – MaST Community Charter School III

WHEREAS, on or about November 15, 2017, an application ("Application") was submitted for MaST Community Charter School III ("MaST III") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 19, 2018; now be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the Application and the concluding document submitted for MaST III and made during the public hearings by representatives for MaST III, the School Reform Commission (“SRC”) hereby grants a Charter to “MaST Community Charter School III” to operate a public charter school serving Kindergarten through Grade 12 for a five-year period commencing on July 1, 2019 and ending on June 30, 2024, provided that MaST III submits the following documentation to the Charter Schools Office no later than June 30, 2018 (“June 30, 2018 Required Documentation”):

1. Curricular materials aligned with Pennsylvania standards for all subjects, including non-core subjects, for all grades to be served during Year 1 of the Charter Term, including without limitation, curricular materials for Physical Education in compliance with 22 Pa. Code Chapter 4 standards, in a form acceptable to the Charter Schools Office;
2. A detailed tiered intervention system plan which identifies the tiers, research-based interventions, progress monitoring and assessments to be used for academic and behavioral supports that is inclusive of each at-risk learners, academically struggling learners, English Learners (“ELs”), and learners who may be evaluated for special education services in compliance with 22 Pa. Code Chapter 711, in a form acceptable to the Charter Schools Office;
3. A revised policy for ELs compliant with applicable federal and state laws and guidance, including a complete language instruction educational program (“LIEP”), and evidence of budgeted staffing for MaST III aligned to the maximum authorized enrollment and any revised projection of EL enrollment, in a form acceptable to the Charter Schools Office;
4. A revised Code of Student Conduct compliant with 22 Pa. Code Chapter 12 requirements, minimally identifying offenses and corresponding consequences and specifying offenses which may result in suspension or expulsion, in a form acceptable to the Charter Schools Office;
5. A bullying policy, including but not limited to preventative bullying education, monitoring and reporting systems, in compliance with applicable federal, state and local laws;
6. A revised student absence policy that eliminates inequitable treatment of students by type of absence, does not provide for any exclusion from a core or supplemental educational plan component for unexcused absences, and is compliant with applicable federal, state and local laws, including without limitation, Act 138 of 2016 concerning truancy;
7. A revised school calendar reflecting a 2019-2020 opening year for MaST III and for the operations of MaST III, in compliance with applicable federal, state and local laws;
8. A revised complaint policy that clearly identifies the method of complaint submission and contact information and accommodates ELs and non-English speakers;
9. A revised shared services agreement (“SSA”) between Mathematics, Science and Technology Community Charter School (“MaST”) and MaST III that clearly (i) identifies which, if any, services will not be included in the services fee and may be separately billed to MaST III and (ii) clarifies what property is included and/or exempt from the Intellectual Property clause in the SSA, in a form and with provisions that are acceptable to the Charter Schools Office;

and be it

FURTHER RESOLVED, that MaST III shall submit the following documentation to the Charter Schools Office no later than September 15, 2018 (“September 15, 2018 Required Documentation”):

1. A revised Year 1 staffing table as well as a budget template reflecting for MaST III a 2019-2020 opening year, the maximum authorized enrollment, an appropriate level of professional staffing based on the enrollment and any revised projections, the secured Year 1 location, and any revised line items of the budget as a result of the terms of this Resolution;
2. A detailed marketing, recruitment and engagement plan (“Recruitment Plan”) to identify, attract and enroll at least fifty percent (50%) of MaST III’s students from those age and grade-eligible students residing in the following zip codes in the City of Philadelphia: 19120, 19124, 19140 and 19141 (collectively referred to as the “Attendance Zone”) in a form acceptable to the Charter Schools Office;
3. An Admissions Policy and Process which complies with the Public School Code and Charter School Law and which includes provisions on application deadlines, recruitment communications, including details on methods to be used to recruit students in the Attendance Zone and citywide, lottery preferences, requested or required enrollment documents, lottery dates, and results, in a form that is acceptable to the Charter Schools Office. The Admissions Policy and Process shall provide that if seats open during the school year or between school years for Kindergarten through Grade 12, MaST III shall accept new students from the waiting list in appropriate order for particular grades or new applicants if there are no applicants for that grade on the waiting list. The Admissions Policy and Process also shall provide that MaST III shall provide a copy of its current waiting list at any time during the Term of the Charter within ten (10) business days after requested by the Charter Schools Office;
4. A list of the names and addresses and the complete resumes of the members of the MaST III Board of Trustees which demonstrate that none of the members of the MaST Board of Trustees, the Mathematics, Science and Technology Community Charter School II Board of Trustees, or the MaST Educational Services Provider (“ESP”) Board or controlling entity members identified in the SSA serve on the MaST III Board or hold an officer position on the MaST III Board;
5. Bylaws adopted by the MaST III Board of Trustees at a public meeting which provide: (i) that all meetings, including emergency and special meetings, of the Board and Board committees shall be held and publicly noticed in accordance with the Sunshine Act; (ii) that all meetings of the Board and Board committees shall be open to the public without a requirement that a quorum of the Board is anticipated; (iii) that all employee dismissals and/or terminations shall be approved by the Board at a public meeting; and (iv) that the MaST III Board shall have the power and authority to amend the Articles of Incorporation and/or Bylaws without the permission or approval of any third party;
6. The executed lease or sublease or executed intent to lease or sublease related to MaST III's use of the facilities at 1 Crown Way, Philadelphia, PA 19154, in a form acceptable to the Charter Schools Office;
7. A certificate of insurance evidencing that insurance coverage has been obtained by the Charter School in the amounts and categories as deemed acceptable by the Charter Schools Office;
8. A resolution duly approved by the Board of Trustees of MaST III resolving that all teachers, including teachers of ELs, will be employed directly by MaST III, rather than being engaged as contractors either directly or through the ESP;
9. A plan for assistance with transportation for Kindergarten students residing in the Attendance Zone in a form acceptable to the Charter Schools Office;

and be it

FURTHER RESOLVED, that the Charter for MaST III shall contain the following terms and conditions:

1. MaST III shall use the 2018-2019 school year as an additional planning year and shall not open until the 2019-2020 school year;
2. MaST III shall be authorized to operate only as a Kindergarten to Grade 8 charter school starting in the 2019-2020 school year with a maximum enrollment of 900 students in Kindergarten through Grade 8 in 2019-2020; 1000 students in Kindergarten through Grade 9 in 2020-2021; 1100 students in Kindergarten through Grade 10 in 2021-2022; 1200 students in Kindergarten through Grade 11 in 2022-2023; and 1300 students in Kindergarten through Grade 12 in 2023-2024 and any renewal of the Charter, unless the parties agree in writing to other terms. Under no circumstances will MaST III request payment from either the School District or the Pennsylvania Department of Education for more students than set forth herein or enroll students in different grades, without authorization by the SRC or the Board of Education by resolution approved at a public meeting;
3. MaST III shall enroll at least fifty percent (50%) of its first-time enrolled students from students residing in the following zip codes in the City of Philadelphia, comprising the Attendance Zone: 19120, 19124, 19140, and 19141. MaST III first shall enroll 50% of its open seats with students residing in the Attendance Zone and shall at all times during the Charter Term set aside 50% of MaST III's available seats for newly enrolling students residing in the Attendance Zone. MaST III shall fill remaining seats with applicable sibling and founder preferences as set forth in the Admissions Policy and Process and then on a random basis in accordance with Section 1723-A of the Charter School Law. All other provisions of Section 17-1723-A and the Public School Code shall remain in force, and MaST III may not exclude children on any basis other than that set forth in this paragraph;
4. MaST III shall adopt and implement a Recruitment Plan to identify, attract and enroll a sufficient number of students to meet the 50% seat set aside for students residing in the Attendance Zone. Such Recruitment Plan shall be provided to the Charter Schools Office on or before September 15, 2018 for approval. MaST III shall provide credible evidence to the Charter Schools Office on or before April 30, 2019 that MaST III has implemented the Recruitment Plan to achieve the 50% set aside for students residing in the Attendance Zone. Thereafter, annually on April 30th during the Charter Term, MaST III shall demonstrate to the Charter Schools Office through credible evidence that MaST III has continued to successfully implement the Recruitment Plan;
5. During the Term of the Charter, there shall not be any overlap in voting or ex-officio board members between the Board of Trustees of MaST III and the Board of Trustees of MaST or MaST ESP, or any subsequent educational services provider for MaST III. During the Term of the Charter, the Chief Executive Officer ("CEO") of MaST III shall not also serve as the CEO of any other charter school or be employed or compensated by another charter school, charter management company or multiple charter school organization ("MCSO"). Prior to the opening of MaST III, MaST ESP, the proposed educational services provider of MaST III, shall document its intent to function as a separate entity from the charter schools to which MaST ESP provides services, as stated in the Application and at the application hearing, either through the formation of a new legal entity, the creation and approval of a MCSO, or another structure acceptable to the Charter Schools Office;
6. MaST III shall submit to the Charter Schools Office on or before January 31, 2019 curriculum and program materials for Grades 9-12 outlining MaST III's programs focusing on healthcare learning, career and technical education, and internships and/or other programs with trade unions in Philadelphia;

7. MaST III shall employ at least one certified English as a Second Language instructor no later than the enrollment of any student identified as an EL;

8. MaST III shall participate in the School District's charter school performance framework and monitoring system as set forth in the School District charter school policies and procedures and any amendments thereto. The charter school performance framework will include annual evaluations of MaST III's academic, financial, and organizational performance. MaST III agrees to submit or allow to be submitted to the Charter Schools Office all student level academic information and any school-level data required for assessment of academic and organizational performance as part of the charter school performance framework and monitoring system;

9. If MaST III achieves a ranking in the bottom two levels on the School District's School Progress Report, or its subsequent replacement, during any year of the term of the Charter, the Charter Schools Office may require that MaST III meet certain specific student achievement targets and participate in ongoing progress reporting;

and be it

FURTHER RESOLVED, that the Charter Schools Office shall issue a written Charter to MaST III upon the Charter Schools Office's receipt of satisfactory June 30, 2018 Required Documentation and September 15, 2018 Required Documentation as set forth above, and that MaST III shall sign such Charter on or before December 31, 2018. The SRC hereby delegates authority to determine compliance with the requirements of this Resolution to the Chief of Staff of the SRC or of the Board of Education. Failure of MaST III to submit satisfactory June 30, 2018 Required Documentation and September 15, 2018 Required Documentation or to sign the Charter by December 31, 2018, or by the end of any extension period granted by the SRC Chief of Staff or the Board of Education Chief of Staff, shall void this Resolution and shall cause the SRC or the Board of Education to re-vote on the Application within thirty (30) days after December 31, 2018, or the expiration of any extension period, whichever is later. Notice of voiding this Resolution for failure to submit the June 30, 2018 Required Documentation and September 15, 2018 Required Documentation or the signed Charter shall be issued by the Chair of the SRC or the Chair or President of the Board of Education. Notwithstanding these provisions, the Charter granted herein will not take effect until the written Charter has been signed and delivered by the Chair of the SRC or the Chair or President of the Board of Education, and the Chair of MaST III's Board of Trustees, or another duly designated member of the Board.

SRC-6 (Updated 2.22.18)

Proposed Action on New Charter Application – Mastery Charter Elementary School

WHEREAS, on or before November 15, 2017, the applicant for Mastery Charter Elementary School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 24, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school starting in the 2019-2020 school year serving K-Grade 7 and a maximum enrollment of 672 students in the fifth year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

SRC-7 (Updated 2.22.18)

Proposed Action on New Charter Application – Philadelphia Hebrew Public Charter School

WHEREAS, on or before November 15, 2017, the applicant for Philadelphia Hebrew Public Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 24, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school starting in the 2019-2020 school year serving K-Grade 5 with a maximum enrollment of 468 students in the fifth year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

II. EDUCATION SUPPORT SERVICES

None Submitted

III. EDUCATION SERVICES

None Submitted

IV. INTERMEDIATE UNIT

None Submitted

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: ANTONIA PANTOJA PREPARATORY CHARTER SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia ("School District") by the applicant for the Antonia Pantoja Preparatory Charter School ("Pantoja Prep", "Applicant" or "Charter School"). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office ("CSO") assists the SRC and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (APPCS 1-1248).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "APPCS."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 29, 2018. The public hearings were each stenographically recorded.
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2NtISkJDWmQ4YXVGQk0/view.
 - b. The Application including submitted attachments except Attachment 1 (APPCS 1-1248);
 - c. Attachment 1 containing the Applicant's curricular documents, which has not yet been bates stamped;
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (APPCS 1249-1267);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (APPCS 1268-1293);
 - f. The Experienced Operator Addendum supplied by the CSO for the schools that are managed by ASPIRA, Inc. of Pennsylvania ("ASPIRA"), which was marked as School District Exhibit No. 2 (APPCS 1294-1302);
 - g. Public comments received by the SRC during the advertised public comment period (APPCS 1303-1315);
 - h. The concluding document filed by the Applicant (APPCS 1316-1333); and
 - i. Transcripts from the hearings held on December 18, 2017 and January 29, 2018.

10. ASPIRA filed two applications by November 15, 2017 – the Pantoja Prep Application and an application for the Eugenio Maria de Hostos Preparatory Charter School (“Hostos Prep”). Because of overlap related to the two applications, the Applicant and its counsel agreed that the transcripts from the Pantoja Prep hearing and the Hostos Prep hearing could be incorporated into the records for each application. (1/29/18 HP N.T. 4-5). The January 29, 2018 Pantoja Prep transcript will be referred to as “1/29/18 PP N.T. ___” and the January 29, 2018 Hostos Prep transcript will be referred to as “1/29/18 HP N.T. ___”.
11. Supplemental materials were not accepted following receipt of any of the new applications. The 2017-2018 application form published by the School District specifically states on page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

12. The entities applying for the Charter School are ASPIRA and “Eugenio Maria De Pantoja Charter School”. (APPCS 1). No such entity exists called “Eugenio Maria De Pantoja Charter School”. The Applicant appears to have made a drafting error, combining the names of two different applicants – one being Eugenio Maria de Hostos Charter School (the applicant for Hostos Prep), and the other being Antonia Pantoja Charter School (“Pantoja”).
13. Pantoja and Eugenio Maria de Hostos Charter School (“Hostos”) are both existing charter schools operating in Philadelphia and managed by ASPIRA.
14. Similar to the incorrect name of the entity identified in the cover page of the Application, ASPIRA made numerous other drafting errors in the Application. By way of example and not limitation, inconsistencies are identified with respect to the facility (Cf., APPCS 1, 62,

63), the proposed school leader (Cf. 3, 41), and the proposed enrollment for the school (Cf. APPCS 2, 48-49, 424-428, 987, 1252).

15. The Applicant did not address all of the components of the 2017-2018 New Charter Application. (APPCS 1280).

16. The Charter School seeks a five-year charter for the school years 2018-2019 through 2022-2023. (APPCS 2). Pantoja Prep would open in year 1 with as a K-8 school serving 425 students. Thereafter, the Charter School would continue to operate as a K-8 school, with enrollment increasing each year. Conflicting information was provided in different pieces of the Application as to the enrollment in year 4 and year 5 (at scale) – the at-scale enrollment was inconsistently identified as 925, 975 and 1200. (APPCS 2, 48-49, 428, 1252). The Applicant stated at the hearing that enrollment at scale would be 925. (1/29/18 PP N.T. 129-130).

17. The materials submitted in the Applicant's proposed enrollment application contain a mixture of references to Pantoja Prep and Hostos Prep. The "Student Application 2018-2019" indicates that it is for "Antonia Pantoja Preparatory Charter School" but then includes an address of 6301 N. 2nd Street, which is the proposed address for Hostos Prep. (APPCS 274-277). The Enrollment Notification Forms attached to the Student Application identifies the charter school as "Eugenia Maria de Hostos" at 6301 N. 2nd Street. (APPCS 279). Forms attached to the Student Application are also for Hostos. (APPCS 286-294). In another place, the name of the proposed Charter School is identified as "Antonia Pantoja Preparatory Community Bilingual Charter School." (APPCS 288).

18. At the top of the student Code of Conduct, the name of the Charter School is misspelled as "Antonia Pantoja Preparatrory harter School". (APPCS 328).

19. The Code of Conduct contains a “Bullying/Cyber Bulling (sic) Policy”. The bullying policy contains the following expulsion procedures:

1. The Board of Trustees (or designee) may conduct an expulsion meeting or may appoint an expulsion examiner to conduct an expulsion meeting.
2. An expulsion will not take place until the student and the student’s parent/guardian are given written notice of their right to appear at an expulsion meeting. Failure to request and/or to appear at this meeting will be deemed a waiver of rights administratively to contest the expulsion.
3. If an expulsion meeting is timely requested, the principal (or designee) will present evidence to support the charges against the student. The student/parent will have the opportunity to answer the charges against the student and to present evidence to support the student’s position. An attorney may not represent the student at the expulsion meeting, but the attorney may be available for consultation outside the meeting room during the course of the expulsion meeting.
4. If an expulsion meeting is held, the expulsion examiner will make a written summary of the evidence heard at the meeting, take any action found to be appropriate, and give notice of the action taken to the student/parent.
5. The student/parent has no right to appeal an expulsion decision to the school board as the school board has voted not to hear student expulsion appeals.

(APPCS 340).

ASPIRA

20. ASPIRA currently serves as the management organization for Hostos, Pantoja, John B. Stetson Charter School (“Stetson”); Olney Charter High School (“Olney CHS”), and ASPIRA Bilingual Cyber Charter School. (APPCS 1294-1302).
21. On December 14, 2017, by Resolutions Nos. SRC-8 (“SRC-8”) and SRC-9 (“SRC-9”), the SRC voted to approve the institution of nonrenewal proceedings against Olney CHS and Stetson. Copies of SRC-8 and SRC-9 are attached hereto as Appendixes A and B, respectively.
22. The charges contained in SRC-8 and SRC-9 include, *inter alia*, governance issues related to the board structure in place for all of the ASPIRA-managed schools, bylaw compliance, transactions among the ASPIRA-managed schools, fees charged by ASPIRA that were not

explicitly disclosed in the management agreement, and issues pertaining to the internal controls in place.

23. Hearings related to the charges in SRC-8 and SRC-9 are pending at this time.
24. Hostos and Pantoja are both in the renewal cohort currently under review by the CSO in the 2017-2018 school year. See <https://www.philasd.org/charterschools/renewal/>.
25. The SRC is not the authorizer of ASPIRA Bilingual Cyber Charter School.

Curriculum and Educational Programming

26. Attachment 37 to the Application contains an English Language Learner (“ELL”) Manual. (APPCS 1208-1242). The ELL Manual reflects programming at the existing ASPIRA-managed schools, but does not address programming to be provided at Pantoja Prep. The ELL Manual is not compliant with the Every Student Succeeds Act (“ESSA”) or the updated Basic Education Circular (“BEC”) entitled “Educating English Learners”, published by the Pennsylvania Department of Education (“PDE”) on July 1, 2017. In fact, the ELL Manual references the No Child Left Behind Act as “the latest reauthorization of the 1965 Elementary and Secondary Education Act (ESEA)”. (APPCS 1216).
27. The Applicant anticipates an English Learner (“EL”) population of between 12-20% based upon the differing representations in different places in the narrative (12% in enrollment chart on APPCS 49; 20% in paragraph following enrollment chart on APPCS 49; 13% on APPCS 59). On year 1, based upon these representations, a population of 12-20% ELs equates to 56-85 students.
28. The Applicant stated that a “Staffing List Detail” was attached to the Application, but no such document was submitted. (APPCS 43). The budget includes line items that reflect

multiple positions, making it unclear which positions and how many positions are included in some of the lines. (APPCS 424).

29. The Applicant did not provide a Professional Development (“PD”) Plan for Pantoja Prep.

The PD Plan submitted by the Applicant is a plan for Hostos, an operating charter school, for the 2017-2018 school year. (APPCS 231-236). Given that Hostos is an operating charter school with existing staff, the PD that would need to be provided at Hostos and the PD that would need to be provided to brand-new staff at Pantoja Prep would differ. Further, because the plan provided is for the 2017-2018 school year, the Applicant did not identify what PD would be offered for Pantoja Prep staff during the 2018-2019 school year, both with respect to the summer induction program and the targeted PD during the school year.

30. The CSO presented an Evaluation Report of the Application at the January 29, 2018 hearing. The following observations by the CSO regarding the curriculum, educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

The curriculum submitted by the applicant for Kindergarten through Grade 8 did not fully align to the PA Core for all subjects to be taught at the Charter School in Year 1: the Charter School intends to open as a Kindergarten through Grade 8 school. While the Curriculum & Educational Plan includes a thorough narrative description for ELA, math and science, all other subject areas were found to be deficient. Only the science curriculum reflected full alignment to the PA standards at all grade levels. Although curricular materials were provided for all subjects to be taught in Year 1 including Spanish Language Arts (SLA), the materials provided were not complete. For example, the applicant did not provide clear evidence of standards alignment to the PA Core and Pennsylvania Academic Standards for ELA, Visual Arts, music or SLA. Unit plans were only provided for science and math. Full lesson plans, evidence of differentiated instruction, goals and objectives, and assessments were not provided for any subject with the exception of math

which did identify assessments. Evaluators were also unclear regarding the integration of various components of the curriculum. For example, the applicant identified using both GoMath! (page 12 and Attachment 1) and Saxon Math (pages 14-15); however, the curricular materials provided did not identify how these two curriculums would be integrated or at what grade levels they would be used.

* * *

The Response to Instruction and Intervention (RtII) plan proposed by the applicant raised several concerns for evaluators, however. The plan provided by the applicant includes universal screening but only for students in Kindergarten through Grade 4, leaving evaluators uncertain about how students in upper grades would be screened and referred for evaluation timely (page 15). The RtII plan does delineate that students will be in differentiated groups, including a remedial group. Students who make limited progress in these groups are referred to the Support Services Coordinator, who at that time would hold a team meeting to review data and to determine whether to make a referral for a comprehensive school evaluation. Evaluators indicated that this model is part of the RtII process, but that there are missing interventions, including universal interventions implemented by the classroom teacher during regular classroom instruction, one-on-one tutoring and other forms of individualized intervention given in other settings. The escalation from small group intervention to a comprehensive school evaluation does not seem to fit a RtII model of attempting, tracking and assessing interventions in order to reduce the number of referrals for special education evaluation.

(APPCS 1277-1278).

31. Attachment 1 contains the Applicant's curricular documents. For English Language Arts ("ELA"), the Applicant provided "Year at a Glance" documents for K-8. However, in grades 3-5, the following PA Core standards are not evidence in the curriculum maps: Informational Text and Reading Literature related to Integration of Knowledge and Ideas, Diverse Media; and Reading Literature related to Text Structure. (See Attachment 1, "Year at a Glance" submissions for 3rd Grade, 4th Grade and 5th Grade).
32. For Math, the PA Core standards (designated with a "CC" prefix) are evident in K-2nd grade pacing documents but are not evident in the pacing guides for Grades 3-8. The only alignment references are to the Pennsylvania assessment anchors, not the PA Core standards. (See Attachment 1, Pacing Guides for 3rd grade through 8th grade math).

Facility

33. The proposed location of the Charter School appears to be 4322 N. 5th Street, Philadelphia, Pennsylvania 19140, which is the currently location of ASPIRA's headquarters. (APCCS 1, 62). The Charter School would lease the facility from ASPIRA.
34. A lease ("Lease") between ASPIRA and Pantoja Prep reflects the following terms: (i) a two-year lease term; (ii) Base Rent of \$30,000 per month; (iii) Tenant's obligation to pay or undertake all maintenance, repairs, replacements, utilities, insurance, operating expenses and taxes; (iv) the obligation to pay "Additional Rent" that the Tenant would agree to pay under a separate Agreement. (APPCS 972-973). Tenant is required to "keep, repair and maintain the entire exterior and interior of the Premises" at its sole cost and expense and without reimbursement or contribution by ASPIRA. (APPCS 974). ASPIRA is providing the property to Pantoja Prep under the Lease in "as is" condition with no requirements that ASPIRA maintain the property in any particular condition. (1/29/18 PP N.T. 97).
35. In year 1, Pantoja Prep would lease 18,000 square feet from ASPIRA. (1/29/18 PP N.T. 96).

Financial Planning

36. The Pantoja Prep proposed budget does not include any costs for substitute services. (APPCS 424; 1/29/18 HP N.T. 49-50). Nor does the budget include costs for tuition reimbursement, even though tuition reimbursement of up to \$2500 per employee per fiscal year is one of the employee benefits available after 90 days of employment. (APPCS 241-242, 424).

37. ASPIRA and Pantoja Prep would enter into a Master Service Level Agreement (“MSLA”)

for management services. (APPCS 56). Under the MSLA, the management fee payable to

ASPIRA is stated as follows:

Pantoja Prep will pay ASPIRA in Years 1-3 a Management Fee of 2% of local school funds and in Years 4-5 a Management Fee of 4% of local school funds plus reimbursement for any Direct Service Costs, which shall be based (in each Year) on the pricing which ASPIRA charges for its Services. Pantoja Prep agrees that the Direct Service Costs with respect to each Service shall be subject to change by ASPIRA, not more than once per calendar year, at ASPIRA’s reasonable discretion (each a “Service Cost Change”). Each Service Cost Change shall be communicated to Pantoja Prep in writing. Notwithstanding the foregoing or anything to the contrary herein, in no event shall any Service cost change with respect to any Service represent an increase of more than \$175,000 as compared to the Direct Service Costs charged for such Service immediately prior to such Service Cost Change

(APPCS 407).

38. The MSLA does not identify the actual costs associated with any of the “Direct Service

Costs” described in Exhibit A of the MSLA. (APPCS 421-422). The CSO raised a concern

regarding this fee structure, which the SRC finds to be credible:

These terms suggested to evaluators that for each of the eight identified Direct Services, ASPIRA could increase the annual charge from some unidentified base rate of up to \$175,000 for each services (sic) with no mutual agreement from the Charter School, preventing APPCS from being able to effectively manage its annual expenses and budget. Additionally, as the Direct Services include key student services including transportation and food services, evaluators were concern about the disruption of services to students should costs become unreasonable. In consideration of this structure which assigns a management fee for only academic and operational management services plus costs for direct services for administrative and contracting services, financial management services, human resources and payroll, and information technology and support services, evaluators find the “management and services fees” for ASPIRA, as CMO, to be significantly higher than Philadelphia charter sector averages.

(APPCS 1287).

39. At the January 29, 2018 hearing, the Applicant disclosed that the total Direct Service Costs

included in the year 1 budget are \$1,718,779. (1/29/18 PP N.T. 122-123).

40. The year 1 budget also includes the “CMO management fee” of \$217,507, which amounts to 4% of local school funds received in year 1. (APPCS 424). Said amount is not consistent with the 2% fee identified in the MSLA.
41. Under the Lease terms, rent of \$30,000 per month would equate to \$360,000 in year 1 and year 2. However, the year 1 rent included in the budget is \$297,500, which is \$62,500 less than what the lease requires. (APCCS 424).
42. As noted above, the budget does not clearly identify all of the positions that are included in various line items; specifically line item 29 (1.9 positions under the heading “Leadership”), line item 34 (3.0 positions under the heading “ELL, Technology Teacher”), line item 38 (2.0 positions under the heading “Instructional Assistant, Teacher Assistant, Classroom Aids”), line item 43 (8.0 positions under the heading “Safety & food service”) and line item 43 (the second line 43) (5.0 positions under the heading “Custodial & Maintenance”). (APPCS 424). According to the Applicant’s statements at the hearing, several of these positions are not actually reflective of employees of Pantoja Prep; rather, the positions are reflective of ASPIRA positions that will be charged back to Pantoja Prep as Direct Service Costs. (1/29/18 PP N.T. 67-85). It is not known why ASPIRA would include those positions in the 100 or 200 series in the budget when those positions are for contracted services, not direct employee costs.
43. The Application states that the Charter School will have a dean, a Director of Operations and a Behavior Specialist, which are three distinct positions mentioned with differing responsibilities. (APCCS 27, 45, 116-117). In response to a question about how school operations will be managed internally, the Applicant stated: “The Pantoja Preparatory Charter School will hire a Director of School Operations responsible for overseeing

building operations including but not limited to: Finance/Budgeting, Facilities/Custodial Services, Security and Climate Matters, Food Service, Attendance/Truancy and Community Partnerships.” (APCCS 45). The Director of School Operations position is the only position identified as being responsible for those functions as an employee of the Charter School. The Director of School Operations position is not identified in the Organizational Chart or the budget, however. (APPCS 179, 268, 424). When asked about this discrepancy at the second hearing, the Applicant provided conflicting information: stating that the Behavior Specialist would be functioning as the Director of Operations, even though the job description of the Behavior Specialist does not include the functions identified on APPCS 45; suggesting that the Dean of Students would function as the Director of Operations; and also indicating that Pantoja Prep would not have a Director of School Operations until year 3. (1/29/18 PP N.T. 71-72, 84).

44. The Application represents that Pantoja Prep will have a “full-time” Parent and Community Liaison. (APPCS 63). At the second hearing, the Applicant confirmed that this position does not appear in the budget at any time during the first five years. (1/29/18 PP N.T. 100-101).

45. With respect to special education staffing, the Applicant stated in the Application narrative: “In our first year, we will employ a full time special education coordinator as well as 9 full time special education teachers to support the students and case management needs.” (APPCS 22). The budget, however, only includes 6 special education teachers in year 1. (APPCS 424).

46. The projected ending fund balance for year 1 is \$43,295. (APPCS 424).

Governance

47. The Bylaws submitted for Pantoja Prep reference Hostos. (APPCS 390).
48. Although the Conflict of Interest Policy purports to be for Pantoja Prep, the first sentence states: “All employees owe a duty of loyalty to Olney Charter High School (OCHS) employing them.” (APPCS 404).
49. The Hiring Policy is for Hostos Prep. (APPCS 141). The Hiring Policy addresses the personnel requirements that must be met prior to hiring staff. Although the process requires the submission of a criminal background check, the policy does not mention child abuse clearances or Act 168 requirements. (APPCS 141-142).
50. The MSLA contains multiple references to an unknown entity called, “Balances”. (See e.g., APPCS 410, 412, 414, 422).
51. In the Application narrative, the Applicant stated as follows: “The MSLA automatically renews from year to year for additional one-year terms unless either Party notifies the other Party of its intention not to renew this Agreement at least thirty (30) days prior to the end of the then current one-year term. The MSLA (section 10.0) also includes termination provisions customary to these types of agreements.” (APPCS 56).
52. Contrary to the narrative representation, the term of the MSLA is not for one-year terms with a 30-day notice period. The “Period of Agreement” provision in the MSLA states:
3. PERIOD OF AGREEMENT. The term of this Agreement shall commence on the Effective Date and shall be for a period that includes the full term of the Pantoja Prep charter including any extensions, and shall automatically renew thereafter for additional charter terms unless (i) either Party notifies the other Party of its intention not to renew this Agreement for cause at least ninety (90) days prior to the end of the then current fiscal year, or (ii) this Agreement is sooner terminated as provided hereunder.
- (APPCS 407). The only other termination provisions found in the MSLA are found in Paragraph 10, which permit Pantoja Prep to “terminate this Agreement for cause at any

time by giving at least ninety (90) calendar days' prior written notice of termination to ASPIRA." (APPCS 414). Based upon this language, the MSLA is not for one-year terms but rather for the full period of the charter; and the MSLA cannot be terminated by Pantoja Prep at any time, even at the time of renewal, except for cause.

53. The MSLA does not contain any performance conditions or standards for ASPIRA's performance. ASPIRA does not provide any warranties or representations related to the quality of services that it provides. (APPCS 414-415).
54. The MSLA contains a "Notices" provision identifying the persons to whom notices should be sent under the MSLA on behalf of ASPIRA and Pantoja Prep. According to the "Notices" provision, the CEO of ASPIRA and counsel for ASPIRA, Duane Morris LLP, are to receive the notices for ASPIRA. For Pantoja Prep, notices are to go to O'Donnell Associates for the Board of Trustees and the School Principal, and to ASPIRA's own employee, the Superintendent. (APPCS 418).
55. One of the types of services to be provided by ASPIRA to Pantoja Prep is Facilities Services, which include security system maintenance and monitoring, security personnel services "and any other items related to Pantoja Prep facilities." (APPCS 421). Pantoja Prep is responsible for all repairs and maintenance at the proposed facility. Under the MSLA, ASPIRA would be the entity providing the Facility Services; such Facility Services would then be invoiced for payment to Pantoja Prep as a Direct Service Cost. ASPIRA would then be compensated by Pantoja Prep for repairs, replacements and improvements to ASPIRA's own asset, the facility used by Pantoja Prep.
56. The same "three executive committee members" who sit on the Board of Trustees that currently governs the other operating ASPIRA-managed schools, including Olney CHS

and Stetson, would sit on the Pantoja Prep Board. (1/29/18 PP N.T. 112-113; APPCS 40, 55).

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 SRC examines the 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, that it is meeting the standards articulated by CAB and the appellate courts in Pennsylvania.

First and foremost, the Applicant did an extremely poor job ensuring that the proposal presented in the Application reflected the specific programming and operations for Pantoja Prep. As noted in detail in the factual findings above, many of the documents contained in the Application were not, in fact, for Pantoja Prep; rather, they were for other entities operated by ASPIRA. The Application contained multiple drafting errors and inconsistencies in the discussion of the proposed enrollment, location, staffing, governance documents and other important matters for Pantoja Prep. These mistakes reflect extremely poorly on ASPIRA, the Applicant here.

Governance Structure

Pursuant to the Pennsylvania Supreme Court's direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school may not be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school's ability to exercise its rights, including cancellation of the contract between the two entities. *Id.*

The current structure and relationship between ASPIRA and the Charter School raises concerns about the independence of the Charter School. ASPIRA would serve as both the management company and the landlord of the Charter School, which on its face raises issues about the independence of the Charter School from ASPIRA. Both the MSLA and the Lease contain terms that are vastly different from the terms reflected in the Application narrative and the budget.

The MSLA is very one-sided in favor of ASPIRA. The MSLA does not include the pro-Charter School termination provisions that are discussed in the Application narrative; to the contrary, the termination provisions in the MSLA favor ASPIRA. No performance conditions or standards exist in the MSLA; in fact, language has been included that shows ASPIRA making no warranties or representations regarding the fitness or quality of the services it is to provide to the Charter School. Unless ASPIRA breaches the contract resulting in causation for termination, the Charter School would not be able to terminate the MSLA *at any time*, even at the end of the term. The termination provisions result in the Charter School being indentured to ASPIRA into

perpetuity. The notice provisions in the MSLA do not provide for notices to be given by ASPIRA to a Charter School employee or a Charter School board member; instead, ASPIRA has to give notice to its own employee, the ASPIRA Superintendent.

The fee arrangement outlined in the MSLA also precludes the Charter School's ability to approve or authorize fee increases, giving ASPIRA the unilateral right to make substantial and significant fee adjustments of up to \$175,000 for the Direct Service Costs at any time. The MSLA does not identify what the management fee of 2%-4% covers, given that the Direct Service Costs are to be reimbursed directly. When asked at the hearing what the management fee covers, the Applicant said that the fee covers "non-payroll related operational and administrative expenses of the CMO which are used to ensure the CMO can continue to provide services to the schools and to support and reinvest in its services to the school." (1/29/18 PP N.T. 74). When pressed for more details about what those expenses or services were beyond the Direct Service Costs, the Applicant could not or would not elaborate. Because the CSL requires Charter School funds to be used for the charter school's purposes only, the Charter School is not permitted to use its funding to subsidize the operations of a related entity. *See* 24 P.S. § 17-1714-A.

The proposed Lease also raises concerns about whether the Charter School's funds will be used to benefit the Charter School versus ASPIRA. Possession of the leased property will be taken "as is", meaning the Charter School would be taking on not only a triple net lease but also each and every responsibility to make all capital improvements and repairs to the property. Yet, the Charter School will not own the property or receive the benefit of those improvements – ASPIRA will receive that benefit. Not only will ASPIRA receive the benefit of the improvements as the property owner, but the facility work would fall under the Direct Service Costs outlined in the MSLA requiring ASPIRA to perform the work at the sole expense of the Charter School. Again,

these issues raise concerns that the Charter School would be using Charter School funds for the benefit of ASPIRA.

These details about the MSLA and Lease arrangements establish that the Applicant has not taken sufficient steps to ensure the independence of these various entities. As noted by the Commonwealth Court in a decision issued in May, 2017, “[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities.” *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, 162 A.3d 591, 598 (Pa.Cmwlt. 2017). The circumstances identified here do not provide assurances that the relationship between the Charter School and ASPIRA would be one of arms-length transactions.

The Board of Trustees that would govern the Charter School is composed of three executive committee members who also serve on each of the board that operate the other ASPIRA-managed schools, including Stetson and Olney CHS. In December 2017, the SRC instituted nonrenewal proceedings against two ASPIRA-managed schools, Olney CHS and Stetson. Those proceedings will be entering the hearing process in the near future. At this time, the outcome of those hearings is not known, as the SRC (or the Board of Education to be appointed to govern the School District as of July 1, 2018) is responsible for adjudicating those cases based upon the evidence admitted through the nonrenewal hearing processes. However, the adoption of SRC-8 and SRC-9 has placed the SRC on notice of potential concerns with ASPIRA’s management of two of its five existing charter schools. It would not be prudent at this time to authorize two new ASPIRA-managed schools when those allegations against Stetson and Olney CHS remain outstanding. Moreover, the other two brick and mortar charter schools operated by ASPIRA – Hostos and Pantoja – are presently in the renewal cohort for the 2017-2018 school year. The

comprehensive renewal review of the operations of those two charter schools has not yet been completed.

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. The submission of curriculum 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.

Various curriculum concerns raised by the Application are outlined in the factual findings above. Several gaps exist in the ELA alignment with the PA Core standards. The Applicant did not provide documents showing the alignment with the PA Core standards in Grade 3-8 in Math. The SRC also finds that the Applicant did not provide sufficient information related to the system of screening and interventions that it would put in place to meet the requirements of 22 Pa. Code § 711.23.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents that meet the standards set by the CSL and CAB. The

curricular documents submitted do not evidence that the Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4.

English Learners

Charter schools are required to “provide a program for each student whose dominate 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. Prior to the submission of the Application, on July 1, 2017, the Pennsylvania Department of Education reviewed and re-issued its Basic Education Circular (“BEC”) on *Educating English Learners (ELs)* pursuant to 22 Pa. Code § 4.26. The BEC on *Educating English Learners* states in pertinent part:

The purpose of this circular is to provide local education agencies (LEAS) with the requirements and interpretations of the legal mandates governing the education of students who are English learners (ELs). The information included should be used in designing, staffing, and evaluating effective programs for ELS. These mandates and interpretations are based on the Pennsylvania Regulations, Chapters 4 and 11; and on federal law, including Title VI of the Civil Rights Act, the Equal Educational Opportunity Act (EEOA), the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), and regulations and case law under those statutes.

BEC at 1.

ESSA was signed into law on December 10, 2015, and replaced NCLB. The ESSA requirements pertaining to ELs took effect on July 1, 2017, also prior to the submission of the Application. Despite these changes in the law, the Applicant’s policy does not reflect the changes in the law. The Application does not contain any references to ESSA or the revised BEC.

The interplay between the Applicant’s ELL Manual and the bilingual programming to be offered at the Charter School was not clear. Because the Applicant did not provide an articulated

staffing plan – either in the budget or on its own – the SRC cannot determine whether staffing to serve ELs is appropriate.

Given the significant percentage of ELs in the targeted student population, these concerns are additional deficiencies in the Applicant's planning.

Financial Planning

An item that must be addressed in an 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 Docket 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 Docket No. 2009-04, at 12; *Voyager Charter School*, CAB Docket No. 2005-09. The budget must be complete, and must clearly identify a plan to address start-up expenses and the source of such funds. *New Castle Arts Academy Charter School v. New Castle Area School District*, CAB Docket No. 2014-14. 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 Docket No. 2003-3.

The budget supplied by the Applicant did not properly disclose expenditures or reflect the representations in the narrative. The Applicant also failed to submit the staffing plan alluded to in the narrative. The budget submitted included contracted ASPIRA personnel in the instructional and support staff (100 and 200) budget categories; those facts could not be determined by simply reviewing the budget. Significant questioning occurred at the hearing about these positions, and

the disclosures that were made at the hearing should have been reflected in the Application documents, but were not.

The budget fails to include three special education teachers that the Application narrative indicates would serve the student body – only 6 special education teachers are budgeted when 9 such employees (one per grade) are needed. Those missing positions adversely impact the budget by over \$180,000 in salary alone, not including benefits. Additional positions referenced in the narrative – Director of School Operations, Parent and Community Liaison – are not included in the budget.

Not only did the budget inaccurately reflect the staffing, it also contained incorrect assumptions about other expenditures. Both the MSLA and the Lease reflect expenditures that differ from the expenditures in the budget. With respect to the MSLA, the management fee to be paid is 2% of local funds but the budget reflects a 4% fee. With respect to the Lease, rent is underbudgeted by \$62,500. Additionally, no substitute service expenditures are included in the budget.

The Applicant has made fundamental budgeting errors that are indicative of problems in the Applicant's financial planning and the Applicant's ability to provide a comprehensive learning experience. Such fundamental budgeting errors do not warrant the provision of a charter to the Applicant.

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 SRC 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 concerns are discussed in Section B 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum and programming to EL students in Section B above. The SRC reiterates herein that the deficiencies fail to establish that the Charter School would provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4.

3. Section 1719-A(7) – Procedures Which Will Be Used Regarding The Suspension Or Expulsion Of Pupils. Said Procedures Shall Comply With Section 1318.

The Code of Student Conduct contains a bullying policy that violates the requirements of 24 P.S. § 13-1318 and the State Board of Education regulations found in 22 Pa. Code §§ 12.6 and 12.8.³ Specifically, the Code does not comport with the due process protections found in Chapter 12. Only the Board of Trustees may expel students, not a hearing examiner or other designee. Students subject to expulsion are permitted to be represented by counsel at the hearing; they are entitled to have the full Board vote on the expulsion; and they are entitled to appeal the full Board's decision under the Local Agency Law. None of those rights are recognized in the Charter School's bullying policy. The bullying policy is not in compliance with applicable law.

³ All charter schools must comply with Chapter 12. 24 P.S. § 17-1732-A(b).

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

As explained more fully above, material concerns exist regarding the financial planning of the Charter School.

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 for the Charter School. The PD plan submitted was for another entity that was not a start-up charter school. Notwithstanding the fact that the PD plan was for a totally separate and distinct entity, the PD plan did not identify who would provide the PD; the resources that would be used; or the knowledge and skills that would be addressed in order to implement the programming described in the Application. 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 Charter School. 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 PD 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 SRC has reviewed the totality of materials submitted by the Applicant, the evaluation documents provided by the CSO and the other documents noted in the record above. Because of the deficiencies and concerns noted in the

Sections above, the SRC must conclude that the Applicant is not prepared to serve as a model for other public schools.

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RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for Antonia Pantoja Preparatory Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 29, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 925 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

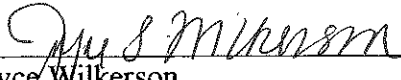
FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

ORDER

For the reasons set forth above, the 2017 Application to create the Antonia Pantoja Preparatory 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).



Joyce Wilkerson
Chair

APPENDIX A

RESOLUTION

Re: Olney Charter High School; Notice of Nonrenewal of Charter

WHEREAS, in January, 2010, the School Reform Commission ("SRC") adopted the Renaissance Schools Initiative Policy, which authorized the SRC to grant Renaissance charters as part of the Renaissance Schools Initiative of The School District of Philadelphia ("School District"); and

WHEREAS, Olney High School – East and Olney High School - West (collectively, "Olney High School") had been identified as School District schools which needed fundamental change through the Renaissance Schools Initiative to facilitate a transformation of the learning environment; and

WHEREAS, the purpose of the Renaissance Schools Initiative was to dramatically improve the learning environment in underperforming School District schools to create highly effective schools that provide exceptional opportunities for student academic achievement and preparedness for success in college and the workforce; and

WHEREAS, for charter schools participating in the Renaissance Schools Initiative, in order to adhere to the mission of the Renaissance Schools Initiative and to maintain high levels of accountability, academic requirements could exceed performance targets for non-Renaissance charter schools; and

WHEREAS, pursuant to the Charter School Law, 24 P.S. § 17-1701-A *et seq.*, the SRC granted a charter to OLNEY CHARTER HIGH SCHOOL ("Olney" or "Charter School") in 2011 to operate Olney High School as a charter school for a five-year term commencing on July 1, 2011; and

WHEREAS, Olney is managed by ASPIRA of Pennsylvania, Inc. ("ASPIRA, Inc."), a charter management organization ("CMO");

WHEREAS, Olney submitted a renewal application to the Charter Schools Office ("CSO") of the School District in October 2015, and Olney seeks renewal of its Charter; and

WHEREAS, members of the CSO have reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of Olney during the existence of the Charter School and have recommended to the SRC that there are grounds for the SRC not to renew the Charter under Section 1729-A of the Charter School Law; and

WHEREAS, the following are grounds for nonrenewal of Olney's Charter and termination of the charter agreement, pursuant to Section 1729-A(a) of the Charter School Law:

1. During the 2012-2013 school year, the first year of administration of Keystone exams for high school students in Pennsylvania, 30.0% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2013-2014 school year, 25.0 % of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2014-2015 school year, 21.1% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2015-2016 school year, 24.0% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2016-2017 school year, 16.50% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. Thus, from the 2012-2013 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Algebra I Keystone exam based on the banked accountability score method decreased by 13.50 percentage points.

2. During the 2012-2013 school year, the first year of administration of Keystone exams for high school students in Pennsylvania, 38.0% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2013-2014 school year, 40.0% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2014-2015 school year, 25.3% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2015-2016 school year, 33.7% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2016-2017 school year 20.5% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. Thus, from the 2012-2013 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Literature Keystone exam based on the banked accountability score method decreased by 17.5 percentage points.

3. During the 2012-2013 school year, 5.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2013-2014 school year, 14.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2014-2015 school year, 11.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2015-2016 school year, 15.6% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2016-2017 school year, 7.4% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. Thus, from the 2013-2014 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Biology Keystone exam based on the banked accountability score method decreased by 6.6 percentage points.

4. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Algebra I Keystone were 42.2% in 2012-2013, 42.6% in 2013-2014, 43.3% in 2014-2015, 48.2% in 2015-2016 and 38.7% in 2016-2017.

5. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Literature Keystone were 56.2% in 2012-2013, 56.1% in 2013-2014, 54.4% in 2014-2015, 60.9% in 2015-2016 and 48.8% in 2016-2017.

6. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Biology Keystone were 21.5% in 2012-2013, 28.3% in 2013-2014, 33.3% in 2014-2015, 40.5% in 2015-2016 and 36.5% in 2016-2017.

7. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Algebra I Keystone were 39.4% in 2012-2013, 40.3% in 2013-2014, 41.7% in 2014-2015, 45.6% in 2015-2016 and 39.2% in 2016-2017.

8. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Literature Keystone were 55.0% in 2012-2013, 55.3% in 2013-2014, 56.4% in 2014-2015, 60.1% in 2015-2016 and 52.8% in 2016-2017.

9. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Biology Keystone were 17.7% in 2012-2013, 25.4% in 2013-2014, 29.8% in 2014-2015, 36.2% in 2015-2016 and 32.7% in 2016-2017.

10. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending schools in Olney's 2015-2016 School Progress Report ("SPR") peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Algebra I Keystone were 36.9% in 2014-2015, 41.7% in 2015-2016 and 33.6% in 2016-2017.

11. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending schools in Olney's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Literature Keystone were 52.7% in 2014-2015, 57.8% in 2015-2016 and 47.0% in 2016-2017.
12. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for student's attending schools in Olney's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Biology Keystone were 21.2% in 2014-2015, 29.0% in 2015-2016 and 26.4% in 2016-2017.
13. Olney's School Performance Profile ("SPP") score was 53.5 in the 2012-2013 school year, the first year an SPP score was generated by the Pennsylvania Department of Education ("PDE"), 49.6 in the 2013-2014 school year, 39.0 in the 2014-2015 school year, 41.4 in the 2015-2016 school year, and 37.9 in the 2016-2017 school year. All of Olney's SPP scores were in the lowest SPP category of 60 or below and all were significantly below a SPP score of 70, the minimum SPP score PDE has identified as meeting academic performance expectations.
14. Olney's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all School District-operated schools including CTE programs. The School District school building level average SPP score was 57.5 in 2012-2013, 57.3 in 2013-2014, 52.7 in 2014-2015, 52.7 in 2015-2016, and 52.8 in 2016-2017.
15. Olney's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all Philadelphia brick and mortar charter schools. The Philadelphia brick and mortar Charter School building level average SPP score was 66.0 in 2012-2013, 63.6 in 2013-2014, 57.6 in 2014-2015, 56.8 in 2015-2016, and 58.0 in 2016-2017.
16. Olney did not meet the Pennsylvania academic growth standard, the Average Growth Index ("AGI"), on the Algebra I Keystone exam in the 2014-2015 and 2016-2017 school years.
17. Olney did not meet the Pennsylvania academic growth standard, the AGI, on the Literature Keystone exam from the 2012-2013 school year through the 2016-2017 school year.
18. Olney did not meet the Pennsylvania academic growth standard, the AGI, on the Biology Keystone exam from the 2014-2015 school year through 2016-2017 school year.
19. When comparing Olney student academic achievement levels to the State's Annual Measureable Objectives ("AMOs") in Algebra I and Literature for the 2013-2014 school year, the last year in which PDE made AMO information available, Olney did not meet the AMO targets on either the Algebra I Keystone exam or the Literature Keystone exam for any of the

nine student subgroups identified (Historically Underperforming, Individualized Education Plan (“IEP”), English Language Learner, Economically Disadvantaged, Male, Female, Asian, Black or African American and Hispanic) except Asian students on the Algebra I Keystone exam and Asian and female students on the Literature Keystone exam.

20. Olney’s four-year high school graduation rate dropped 24.3 percentage points during the Charter Term from the 2011-2012 school year to the 2013-2014 school year. Olney’s four-year high school graduation rate as reported by PDE was 77.5% in the 2011-2012 school year, 58.2% in the 2012-2013 school year, and 53.2% in the 2013-2014 school year. Olney’s graduation rate was lower than the rate for students attending schools in the 2014-2015 SPR peer group in both the 2012-2013 school year and the 2013-2014 school year.

21. Olney’s four-year high school graduation rate, calculated from data as reported to the School District by Olney, increased by 4.8 percentage points from the 2014-2015 to the 2016-2017 school year however it was lower than the rate for students attending schools in Olney’s 2015-2016 SPR peer group and the School District’s graduation rate in the 2014-2015 school year and the 2015-2016 school year. Olney’s four-year high school graduation rate, calculated from data as reported to the School District by Olney, was 60.2% in the 2014-2015 school year, 65.4% in the 2015-2016 school year and 65.0% in the 2016-2017 school year. The four-year high school graduation rate for Olney’s 2015-2016 SPR peer group was 82.0% in the 2014-2015 school year and 82.7% in the 2015-2016 school year. The four-year high school graduation rate for the School District was 74.3% in the 2014-2015 school year and 75.3% in the 2015-2016 school year.

22. Olney had a federal accountability designation of “Priority” for the 2012-2013 school year, the 2013-2014 school year and the 2014-15 school year meaning that Olney was in the lowest 5% of Title I schools based on combined Algebra I/Literature proficiencies for Keystone Exams.

23. Prior to the 2015-2016 school year, although the Charter School is a Renaissance charter school and is expected to have a mission aligned to the intent of the Renaissance Initiative, Olney changed its mission statement to replace “achievement of academic proficiency and college and career readiness” with “persevere towards excellence”.

24. Olney failed to meet commitments made in its original charter application including “dramatic improvements in academic achievement,” “all children enter every grade on level” and “the opportunity and achievement gap is closed for all students.”

25. Olney failed to meet all program requirements for English Language Learners (“ELL”) under Section 4.26 of the State Board of Education regulations in that, during the 2015-2016 school year, Olney did not have sufficient translation and interpretation services to communicate with parents in different languages; Olney did not annually administer the ACCESS assessment as required by PDE guidance; Olney’s exit criteria for ELLs did not fully align with PDE guidance; Olney did not provide direct, daily instruction five days per week to ELLs; and Olney did not have an annual professional development plan for English as a Second Language staff as required under the applicable PDE guidance in the 2015-2016 school year.

26. During the charter term and into the 2016-2017 school year, Olney did not have fully compliant and equitable student admission policies in accordance with the Charter School Law and the Public School Code in that:

- a. During the charter term, as identified during the renewal evaluation in the 2015-2016 school year, the Olney student application required an applicant to provide a social security number and information about race/ethnicity, which is not permissible under PDE guidance.
- b. During the charter term, as identified during the renewal evaluation in the 2015-2016 school year, the Olney enrollment packet required documents to be provided, such as transcripts, special education records, and physical and dental examination records, beyond the five documents that may be required under PDE guidance.
- c. As recently as the 2016-2017 school year, the Olney enrollment packet did not require submission of the five documents required before completing enrollment of a student under PDE guidance: a parent registration statement, proof of residency, proof of age, immunizations and home language survey. Olney addressed this noncompliance after receiving a Notice of Deficiency from the CSO in July 2017.

27. Renaissance performance targets in the Olney Charter related to within year student retention were not met by Olney from the 2011-2012 school year through the 2014-2015 school year. Within year retention at Olney was 83% in the 2011-2012 school year when the target was 85.8%; 79% in the 2012-2013 school year when the target was 89.3%; 85% in the 2013-2014 school year when the target was 91.1%; and 85% in the 2014-2015 school year when the target was 92.8%.

28. Renaissance performance targets in the Olney Charter related to rate of violent incidents were not met by Olney from the 2011-2012 school year through the 2014-2015 school year. The rate of violent incidents was 26.9 per 100 students in the 2011-2012 school year when the target was 9.6; 18.4 per 100 students in the 2012-2013 school year when the target was 5.7; 4.2 per 100 students in the 2013-2014 school year when the target was 3.8; and 14.1 per 100 students in the 2014-2015 school year when the target was 1.8.

29. Olney, in its renewal application, reported seven expulsions in the 2012-2013 school year, three expulsions in the 2013-2014 school year and two expulsions in the 2014-2015 school year. However, Board minutes do not indicate that the Board of Trustees for Olney approved all of the expulsions in accordance with the Public School Code and the Charter School's Bylaws.

30. Actions by an Olney student that could lead to placement in the in-school alternative placement for behavior incidents, called the Success Academy, were not identified in the 2015-2016 school year Family and Student Handbook. Further, it was reported during the site visit in November 2015 that consequences for the same behavior may vary, and staff was unclear on the process for placing students at the Success Academy in 2015-2016.

31. Olney failed to meet a commitment stated in its original charter application related to student attendance. Olney's original charter application stated, "all students are excited to attend school every day". The percent of Olney students attending 95% of more instructional days declined from 20% in the 2013-2014 school year to 15% in the 2016-2017 school year, representing a negative trend. Olney's percentile rank in the 2013-2014 school year (32nd), the 2014-2015 school year (25th), the 2015-2016 school year (26th) and the 2016-2017 school year (24th) were lower than the percentile rank for the Olney School pre-Renaissance in the 2010-2011 school year (35th).

32. The Board of Trustees of Olney failed to operate in accordance with applicable law and Olney's Bylaws and policies in that:

- a. The Olney Bylaws state that officers should be elected at the Annual Board Meeting in June. The Board of Trustees did not provide Board minutes stating that officers were elected at any Annual Board Meeting during the Charter Term. Although a President and Secretary were elected in June 2017, these elections do not reflect a complete slate of Board officers.
- b. Board minutes for the charter term through the renewal evaluation in the 2015-2016 school year, did not clearly state the opening and closing of Board meetings specifically for Olney, as opposed to the other three ASPIRA-managed brick and mortar charter schools; Board meetings for all ASPIRA-managed charter schools are held concurrently with specific business or approvals by individual charter school not clearly delineated.
- c. The Bylaws provide for an Executive Committee that "shall have the authority of the Board; except that no such committee shall have the authority to (i) fill vacancies on the Board or any committee thereof; (ii) amend the by-laws; (iii) approve a plan or merger; (iv) dismiss members of the Board." This raises concerns regarding a subset of Board members acting on behalf of the entire Board on the operations and functioning of the Charter School.
- d. As public officials under the Pennsylvania Public Official and Employee Ethics Act, members of the Board of Trustees are required to complete Statements of Financial Interest annually by May 1. Olney did not provide complete Statements of Financial Interest forms in at least 10 instances for all Board members from the 2012-2013 through 2016-2017 school years. Additionally for calendar year 2016, the most recent year of submission required, Statements of Financial Interest for Olney Board members were completed, dated and signed after the due date of May 1, 2017.

33. Olney failed to meet the 100% highly qualified teacher ("HQT") requirement as required by the No Child Left Behind Act as reported by PDE. In the 2011-2012 school year, only 85% of the PDE-specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2012-2013 school year, only 78% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2013-2014 school year, only 91% of the PDE specified core academic classes taught at Olney were taught by highly qualified

teachers. In the 2014-2015 school year, only 95% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2015-2016 school year, only 96% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers.

34. During the 2015-2016 school year, all special education instructors at Olney were not appropriately certified in violation of PDE regulations. During the 2016-2017 school year, only 27 of 34 special education instructors at Olney were appropriately certified, in violation of PDE regulations.

35. Olney's audited financial statements were not issued on or before December 31 as required by the Pennsylvania Public School Code for three of the four reporting years in the Charter Term. The FY2012 audit was issued in April 2013; the FY2013 audit was issued in January 2014; the FY2014 audit was issued in February 2015; and the FY2016 audit was issued on February 2, 2017.

36. Olney failed to make certain required payments to the Public School Employees' Retirement System ("PSERS") during the Charter Term and the amounts of missed payments were subsequently deducted from the School District's basic education subsidy. The School District recovered from Olney the following funds which Olney failed to pay to PSERS: \$34,615 in November 2012 and \$13,302 in June 2015.

37. Olney has failed to meet generally accepted standards of fiscal management and audit requirements related to short-term financial health and long-term financial sustainability in that:

- a. Olney reported inadequate cash balances, significantly below standard, in all but one year during the period FY2012 through FY2017 with less than 30 days of cash on hand in FY2012, FY2013, FY2015, FY2016, and FY2017. In no fiscal year during the period FY2012 through FY2017 did Olney meet or exceed the standard of 60 days cash on hand.
- b. Olney had a positive net position as a percent of revenue during the period FY2012 through FY2016 but only met the standard of having at least 16.67% in two of the six fiscal years during the same period. In FY2017, Olney's net position was less than 0%.
- c. Olney reported a total margin that was significantly below standard at -14.27% in FY2016, and Olney reported a total margin that was less than 0 in three of the six fiscal years, in FY2015, FY2016 and FY2017, during the period FY2012 through FY2017.
- d. Olney reported a current ratio that was significantly below standard for FY2016 and FY2017 in that Olney's current ratio was less than 1.0.
- e. Olney reported a fund balance that was significantly below standard for FY2016 and FY2017 in that Olney's fund balance was less than 0%.

- f. Transactions between Olney and related parties (ASPIRA and other ASPIRA-managed charter schools) were not approved by the Olney Board of Trustees or the boards of trustees of the other ASPIRA-managed charter schools, and appropriate supporting documentation for such transactions were not provided to the School District or the CSO. No written contracts were executed between or among ASPIRA, the Olney Board of Trustees or the boards of trustees for the other ASPIRA-managed charter schools for the majority of funds shifted between ASPIRA-affiliated entities other than the service level agreement between ASPIRA and Olney.
- g. Neither the Olney internal controls policy submitted with the renewal application nor the internal controls policy submitted by Olney in September 2017 specifically state which entity is responsible for which financial management duties, clearly outline roles for Olney staff versus ASPIRA staff, or state which individuals have check signing authority for Olney.
- h. Olney was owed significant funds from ASPIRA and other ASPIRA-managed charter schools during the period FY2012 through FY2017 including \$1.63 million in FY2012, \$1.38 million in FY2013, \$984,678 in FY2014, \$2.58 million in FY2015; \$2.37 million in FY2016; and \$433,656 in FY2017. Of the funds owed from related parties, a significant portion was owed by ASPIRA, Olney's CMO. ASPIRA owed Olney \$1.5 million in FY2012, \$994,705 in FY2013, \$984,678 in FY2014, \$2.52 million in FY2015; \$2.37 million in FY2016; and \$433,656 in FY2017.
- i. Olney owed funds to ASPIRA and other ASPIRA-managed charter schools during the period FY2012 through FY2017 including \$90,469 in FY2012, \$116,110 in FY2013, \$324,450 in FY2014; and \$38,159 in FY2017.
- j. A service level agreement between Olney and ASPIRA was not approved and signed for July 2013; ASPIRA staff reported a continuance of the 2012 agreement. The Olney Board Chair signed the July 2011 agreement in November 2011. The Olney Board Chair did not date the July 2012 agreement, but the ASPIRA Board Chair signed in January 2013. According to ASPIRA staff, for the 2015-2016 school year, the Olney Board of Trustees agreed to a 4% fee increase. However, the Olney Board of Trustees only approved a 2015-2016 Budget for Olney, not a service level agreement, and no approved or signed agreement for the 2015-2016 school year was available as of February 2016 to address the services, and the terms and conditions related to those services, to be provided by ASPIRA to Olney. During the 2016-2017 school year, Olney was invoiced by ASPIRA for administrative services and charter management fees totaling \$7,016,667 or 27% of total revenues for Olney in FY2017. In FY2015, Olney was invoiced \$2,691,922 for administrative services alone. In FY2017, Olney was invoiced \$6,085,085 for administrative services alone.

- k. Form FY2011 to present, Olney's revenue and financial resources have been used for non-Olney purposes, in violation of the Charter School Law and the Pennsylvania Nonprofit Corporation Law. Olney was not financially independent from other ASPIRA-managed charter schools or from ASPIRA-affiliated entities. Olney is obligated under security agreements, guaranties and other financial instruments to secure the debts of other ASPIRA-managed or ASPIRA-affiliated entities. As of June 30, 2017, Olney had entered into security agreements pledging a portion of Olney's assets to secure the debt of certain related parties. The holders of the debt and the outstanding liability balances are as follows:
- o ASPIRA: Olney's revenue has been included in the security interest of a \$800,215 line of credit loan issued to ASPIRA. The loan matured on October 1, 2016 and was extended through October 31, 2017. The balance of the loan as of June 30, 2017 was \$800,215.
 - o ASPIRA Community Enterprises, Inc. ("ACE"): Olney is the guarantor of a \$5,005,005 mortgage loan issued to ACE for the acquisition and construction loan associated with the Antonio Pantoja Charter School. The balance on the loan was \$4,447,227 for year ended June 30, 2016 and \$4,354,757 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance.
 - o ACE: Olney's revenue has been included in the security interest of a \$1,742,573 mortgage loan issued to ACE. The mortgage loan matures in August 2018. The balance on this loan was \$1,239,345 as of June 30, 2016 and \$1,061,735 as of June 30, 2017.
 - o ACE/Dougherty, LLC ("ACE/Dougherty"): Olney's revenue has been included in the security interest of a \$12,750,000 note payable issued to ACE/Dougherty for the acquisition, construction and renovation for a building for Eugenio Maria de Hostos Charter School. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance. The balance on the loan was \$8,496,247 for year ended June 30, 2016 and \$8,154,432 for year ended June 30, 2017.
- l. In October 2011, a lease agreement was signed between Olney and ACE/Dougherty, LLC, the owner of 6301 North 2nd Street, which is the current location of Eugenio Maria De Hostos Charter School, for Olney to operate an Excel Academy for over-aged, under-credited students at 6301 North 2nd Street rather than at the School District-owned Olney school building. The lease outlined minimum rent of 1.2 multiplied by 12% of the landlord's debt service on the bonds. ASPIRA staff stated that this rent was determined using an enrollment-based pro-rata share of the mortgage expenses. This is a concern as enrollment can vary daily, monthly and yearly. According to the subordination and attornment agreement between ACE/Dougherty, Olney and PNC Bank, if ACE/Dougherty defaults under the loan documents, Olney shall continue making lease payments directly to PNC bank. Prior to moving to the ACE/Dougherty facility, the Excel Academy was housed at Olney during the 2014-2015 school year. As such, space is available at the Olney school building, thus, the Excel Academy program located at a different site causes unnecessary occupancy expenses for Olney. As represented in the FY2017 audited

financial statements, Olney continues to occupy the space in the ACE/Dougherty facility at a rental rate of \$240,000 per year based on the lease terms.

- m. Upon request by the School District's Office of Auditing Services, Olney failed to produce fully descriptive insurance claims made and insurance claims paid information.
- n. The School District's Office of Auditing Services reported a 2012-2013 school year attendance finding of \$251,255 and a 2013-2014 school year active office roll (AOR) finding of \$108,111.24;

So be it;

RESOLVED, that there are substantial grounds for nonrenewal of the Olney Charter; and be it

FURTHER RESOLVED, that the SRC will conduct a public hearing on nonrenewal of the Charter School's Charter commencing on or about April 1, 2018, subject to rescheduling, at which hearing the School District will present evidence in support of the grounds for nonrenewal of the Charter School's Charter, and the Charter School will be given the reasonable opportunity to offer testimony and exhibits in support of why the Charter School's Charter should be renewed; and be it

FURTHER RESOLVED, that the SRC hereby delegates its authority to conduct such public hearing either to a single Commissioner, to a Committee of two Commissioners or to a Hearing Officer to be appointed by the Chair of the SRC; and be it

FURTHER RESOLVED, that the SRC or a Board of Education for the School District will take formal action on the nonrenewal or renewal of the Charter following the hearing at a public meeting, after the public has had thirty (30) days to provide comments to the SRC or a Board of Education.

APPENDIX B

RESOLUTION

Re: John B. Stetson School; an ASPIRA, Inc. of Pennsylvania School; Notice of Nonrenewal of Charter

WHEREAS, in January, 2010, the School Reform Commission ("SRC") adopted the Renaissance Schools Initiative Policy, which authorized the SRC to grant Renaissance charters as part of the Renaissance Schools Initiative of The School District of Philadelphia ("School District"); and

WHEREAS, the John B. Stetson School ("Stetson School") had been identified as a School District school which needed fundamental change through the Renaissance Schools Initiative to facilitate a transformation of the learning environment; and

WHEREAS, the purpose of the Renaissance Schools Initiative was to dramatically improve the learning environment in underperforming School District schools to create highly effective schools that provide exceptional opportunities for student academic achievement and preparedness for success in college and the workforce; and

WHEREAS, for charter schools participating in the Renaissance Schools Initiative, in order to adhere to the mission of the Renaissance Schools Initiative and to maintain high levels of accountability, academic requirements could exceed performance targets for non-Renaissance charter schools; and

WHEREAS, pursuant to the Charter School Law, 24 P.S. § 17-1701-A *et seq.*, the SRC granted a charter to JOHN B. STETSON CHARTER SCHOOL; AN ASPIRA, INC. OF PENNSYLVANIA SCHOOL ("Stetson" or "Charter School") in 2010 to operate the Stetson School as a charter school for a five-year term commencing on July 1, 2010; and

WHEREAS, Stetson is managed by ASPIRA of Pennsylvania, Inc. ("ASPIRA, Inc."), a charter management organization ("CMO");

WHEREAS, Stetson submitted a renewal application to the Charter Schools Office ("CSO") of the School District in October 2014, and Stetson seeks renewal of its Charter; and

WHEREAS, members of the CSO have reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of Stetson during the existence of the Charter School and have concluded that there are grounds for the SRC not to renew the Charter under Section 1729-A of the Charter School Law; and

WHEREAS, the following are grounds for nonrenewal of Stetson's Charter and termination of the charter agreement, pursuant to Section 1729-A(a) of the Charter School Law:

1. During the 2010-2011 school year, 49.9% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2011-2012 school year, 63.5% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2012-2013 school year, 50.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 36.3% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, from the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 27.2 percentage points on the Math PSSA exam

2. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 7.2% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 2.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 2.6% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, under the new Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.6 percentage point decrease in PSSA Math proficiency.

3. During the 2010-2011 school year, 31.6% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2011-2012 school year, 36.0% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2012-2013 school year, 31.2% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 28.3% of Stetson students scored proficient or advanced on the Reading PSSA exam. From the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 7.7 percentage points on the Reading PSSA exam.

4. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 18.3% of Stetson students scored proficient or advanced on the English Language Arts ("ELA") PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 15.2% of Stetson students scored proficient or advanced on the ELA PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 12.4% of Stetson students scored proficient or advanced on the ELA PSSA exam. Thus, under the new Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 5.9 percentage point decrease in PSSA ELA proficiency.

5. During the 2010-2011 school year, 3.6% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2011-2012 school year, 5.3% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2012-2013 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2013-2014 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2014-2015 school year, 8.7% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2015-2016 school year, 8.4% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2016-2017 school year, 3.9% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. Thus, from the

2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.8 percentage point decrease in PSSA Science proficiency for Grade 8.

6. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in only two of the seven school years. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in School District schools were 59.3% in 2010-2011, 52.6% in 2011-2012, 48.0% in 2012-2013, 46.3% in 2013-2014, 16.2% in 2014-2015, 17.5% in 2015-2016, and 18.8% in 2016-2017.

7. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in School District schools were 55.8% in 2010-2011, 53.2% in 2011-2012, 44.2% in 2012-2013, 44.1% in 2013-2014, 33.4% in 2014-2015, 34.3% in 2015-2016, and 35.1% in 2016-2017.

8. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Science on the PSSA for Grade 8 for students in School District schools were 26.0% in 2010-2011, 24.1% in 2011-2012, 27.4% in 2012-2013, 28.6% in 2013-2014, 28.4% in 2014-2015, 28.5% in 2015-2016, and 22.5% in 2016-2017.

9. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar charter schools were 62.1% in 2010-2011, 64.9% in 2011-2012, 57.9% in 2012-2013, 54.1% in 2013-2014, 14.9% in 2014-2015, 15.2% in 2015-2016, and 17.2% in 2016-2017.

10. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar charter schools were 57.0% in 2010-2011, 57.5% in 2011-2012, 51.1% in 2012-2013, 50.6% in 2013-2014, 38.5% in 2014-2015, 38.2% in 2015-2016, and 39.8% in 2016-2017.

11. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Science on the PSSA for Grades 8 for students in Philadelphia brick and mortar charter schools were 31.8% in 2010-2011, 32.0% in 2011-2012, 32.8% in 2012-2013, 32.3% in 2013-2014, 32.5% in 2014-2015, 31.0% in 2015-2016, and 26.2% in 2016-2017.

12. The PSSA Math proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 School Progress Report ("SPR") peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Math exam were 10.4% in 2014-2015, 10.4% in 2015-2016, and 11.0% in 2016-2017.

13. The PSSA Reading/ELA proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA ELA exam were 27.9% in 2014-2015, 27.9% in 2015-2016, and 26.4% in 2016-2017.

14. The PSSA Science Grade 8 proficiency rates for Stetson did not exceed the proficiency rate for students in Grade 8 attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Science exam for Grade 8 were 22.8% in 2014-2015, 22.3% in 2015-2016, and 17.4% in 2016-2017.

15. Stetson's School Performance Profile ("SPP") score was 57.3 for the 2012-2013 school year, the first year an SPP score was generated by the Pennsylvania Department of Education ("PDE"), 48.8 for the 2013-2014 school year, 37.7 for the 2015-2016 school year, and 46.5 for the 2016-2017 school year. PDE did not produce SPP scores for schools serving students in Kindergarten through Grade 8 for the 2014-2015 school year. All of Stetson's SPP scores were in the lowest SPP category of 60 or below, and all were significantly below a SPP score of 70, the minimum SPP score PDE has identified as meeting academic performance expectations.

16. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all School District-operated schools. The School District school building level average SPP score was 57.5 in 2012-2013, 57.3 in 2013-2014, 52.7 in 2015-2016, and 52.8 in 2016-2017.

17. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all Philadelphia brick and mortar charter schools. The Philadelphia brick and mortar Charter School building level average SPP score was 66.0 in 2012-2013, 63.6 in 2013-2014, 56.8 in 2015-2016, and 58.0 in 2016-2017.

18. Stetson did not meet the Pennsylvania academic growth standard, the Average Growth Index ("AGI"), on the Math PSSA exam in the 2013-2014 school year or the 2015-2016 school year.

19. Stetson did not meet the Pennsylvania academic growth standard, the AGI, on the Science PSSA for Grade 8 for the 2010-2011 school year, the 2011-2012 school year, the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year.

20. When comparing Stetson student academic achievement levels to the State's Annual Measureable Objectives ("AMOs") in Math and Reading for the 2012-13 school year, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading PSSA exam for any of the eight student subgroups identified (Historically Underperforming, Individualized Education Plan ("IEP"), English Language Learner, Economically Disadvantaged, Male, Female, Black or African American and Hispanic), except for English Language Learners and Black students on the Math PSSA exam.

21. When comparing Stetson student academic achievement levels to the AMOs in Math and Reading for the 2013-2014 school year, the last year in which PDE made AMO information available, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading/ELA PSSA exam for any of the eight student subgroups identified.

22. Stetson had a federal accountability designation of "Focus" for the 2012-2013 school year, the 2013-2014 school year and the 2014-2015 school year meaning that Stetson was in the lowest 10% of Title I schools based on having the highest achievement gap for the Historically Underperforming Students annual measurable objective.

23. Stetson failed to meet commitments made in its original charter application including: "dramatic improvements in academic achievement," "all children enter every grade on level," "the opportunity and achievement gap is closed for all students" and "all students who want to go to college are ready to do so."

24. Stetson failed to have all special education staff appropriately certified, as required by PDE regulations. According to Stetson's 2015 and 2017 Annual Reports, one special education teacher at Stetson in the 2014-2015 school year and in the 2016-2017 school year was not appropriately certified.

25. Stetson failed to have all English as a Second Language ("ESL") instructional staff appropriately certified as required by PDE regulations. As documented in the 2016 Annual Charter Evaluation ("ACE") based on information submitted by Stetson to the CSO, at least one ESL instructor in the 2016-2017 school year was not appropriately certified.

26. During the charter term and into the 2016-2017 school year, Stetson did not have fully compliant and equitable student admission policies in accordance with the Charter School Law and the Public School Code in that:

- a. As identified at the time of the renewal evaluation in the 2015-2016 school year, during the charter term Stetson's enrollment form previously required a parent or guardian to provide information about the child's United States citizenship status, the child's social security number, and information on whether the child has physical/educational challenges or an IEP which is not permissible under PDE guidance. Stetson's enrollment form was three pages long and required parents or guardians to respond to seven short answer questions and required the student to respond to five short answer questions, which is not permissible under PDE guidance.

- b. As of December 2017, Stetson's website provided limited time periods, Monday to Friday from 8:30 to 11:30am in person, when registration and transfers could take place at Stetson. As a Renaissance charter school, Stetson is expected to maintain an ongoing enrollment and transfer process placing students on an ordered waitlist if the Charter School has met or exceeded its enrollment cap.
 - c. During the 2016-2017 school year, Stetson's enrollment materials did not require submission of proof of age, proof of residency, immunization, home language survey or parent registration statement; all five documents are enrollment materials required by PDE guidance. Stetson addressed this noncompliance with PDE guidance after July 2017, upon receiving a Notice of Deficiency from the CSO.
 - d. For school years 2010-2011 through 2016-2017, Stetson implemented an enrollment policy whereby any Philadelphia resident children from grades 5 to 8 residing within, and space permitting, residing outside of Stetson's Attendance Zone, were eligible for admission to the Charter School. As a Renaissance charter school, Stetson is required to enroll students on a first come, first serve basis only from the Attendance Zone as in Stetson's Charter.
27. Stetson, in its renewal application, reported one expulsion in the 2010-2011 school year, one expulsion in the 2012-2013 school year and one expulsion in the 2013-2014 school year. However, the Board minutes for the 2010-2011 school year, the 2011-2012 school year and the 2013-2014 school year do not indicate that the Board of Trustees for Stetson approved any expulsions in accordance with the Public School Code and the Charter School's Bylaws.
28. The Board of Trustees of Stetson failed to operate in accordance with applicable law and Stetson Bylaws and policies in that:
- a. While the Stetson Bylaws state that Board members would serve for three-year terms, two Board members served for more than three years during the period of the 2010-2011 school year through the 2016-2017 school year. A current Board member has served on the Board since the 2012-2013 school year and per Board minutes submitted to the CSO, the Board member's term expired June 30, 2016.
 - b. The Stetson Bylaws state that officers should be elected at the Annual Board Meeting in June. The Board of Trustees did not provide Board minutes stating that officers were elected at any Annual Board Meeting during the Charter Term. Although a Chair and Secretary were elected in June 2017, these elections do not reflect a complete slate of Board officers.
 - c. Board minutes for the charter term through the renewal evaluation in the 2015-2016 school year, did not clearly state the opening and closing of Board meetings specifically for Stetson, as opposed to the other three ASPIRA-managed brick and mortar charter schools; Board meetings for all ASPIRA-managed charter schools

are held concurrently with specific business or approvals by individual charter school not clearly delineated.

- d. The Bylaws provide for an Executive Committee that “shall have the authority of the Board; except that no such committee shall have the authority to (i) fill vacancies on the Board or any committee thereof; (ii) amend the by-laws; (iii) approve a plan or merger; (iv) dismiss members of the Board.” This raises concerns regarding a subset of Board members acting on behalf of the entire Board on the operations and functioning of the Charter School.
 - e. As public officials under the Pennsylvania Public Official and Employee Ethics Act, members of the Board of Trustees are required to complete Statements of Financial Interest annually by May 1. Stetson did not provide complete Statements of Financial Interest forms for all Board members for all years during the Charter Term. Additionally for calendar year 2016, Statements of Financial Interest for Board members were completed, dated and signed after the due date of May 1, 2017.
29. Stetson failed to meet the 100% highly qualified teacher (“HQT”) requirement during the period from the 2012-2013 school year through the 2015-2016 school year, as required by the No Child Left Behind Act as reported by PDE. In the 2012-2013 school year, only 71% of the PDE-specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2013-2014 school year, only 73% of the PDE specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2014-2015 school year, only 92% of the core academic classes at Stetson were taught by highly qualified teachers. In the 2015-2016 school year, only 89% of the core academic classes at Stetson were taught by highly qualified teachers.
30. Stetson’s audited financial statements were not issued on or before December 31 for FY2012 through FY2014 and for FY2016 as required by the Pennsylvania Public School Code. The FY2012 audit was issued in April 2013; the FY2013 audit was issued in January 2014; the FY2014 audit was issued in February 2015; and the FY2016 audit was issued on February 2, 2017.
31. Stetson failed to make certain required payments to the Public School Employees' Retirement System (“PSERS”) during the Charter Term and the amounts of missed payments were subsequently deducted from the School District's basic education subsidy. The School District recovered from Stetson the following funds, which Stetson failed to pay to PSERS: \$1,096 in March 2012, \$45,317 in June 2012, and \$240 in May 2013.
32. Stetson has failed to meet generally accepted standards of fiscal management and audit requirements related to short-term financial health and long-term financial sustainability in that:
- a. At the time of the renewal evaluation during the 2015-2016 school year, Stetson had not adopted and implemented sufficient internal controls policies. The School District’s Office of Auditing Services noted no definitive internal control

policy related to the allocation of disbursements servicing more than one charter school.

- b. At the time of the renewal evaluation during the 2015-2016 school year, Stetson and ASPIRA employees had debit/credit cards for use in making Stetson school purchases without specific approval and oversight processes. Discrepancies existed between how the Stetson Board of Trustees and school leadership described the process for requesting and approving use of Stetson's debit/credit card.
- c. At the time of the renewal evaluation during the 2015-2016 school year, monthly invoicing requirements set forth in the management agreement were not followed as specified during the Charter Term.
- d. At the time of the renewal evaluation during the 2015-2016 school year, the School District's Office of Auditing Services noted that transactions between Stetson and related parties (ASPIRA and other ASPIRA-managed charter schools) did not contain an indication of Board approval by Stetson, or other ASPIRA-managed charter schools, where applicable, or appropriate supporting documentation. No written contracts were in place for the majority of funds shifted between related parties outside of the management agreement between ASPIRA and Stetson. Stetson's FY2017 independent financial audit noted that any amounts owed related parties are unsecured, non-interest bearing and have no repayment terms.
- e. Stetson was owed significant funds from ASPIRA, Stetson's CMO, during the period FY2011 through FY2017 including \$495,740 in FY2011, \$790,736 in FY2012, \$1,877,802 in FY2013, \$805,449 in FY2014, \$164,835 in FY2015, and \$233,844 in 2017.
- f. As of June 30, 2011, Stetson owed \$792,796 to two other ASPIRA-managed charter schools. As of June 30, 2012, Stetson owed \$906,545 to three other ASPIRA-managed charter schools. As of June 30, 2013, Stetson owed \$1,023,195 to four other ASPIRA-managed charter schools. As of June 30, 2014, while Stetson no longer owed money to other ASPIRA-managed charter schools, Stetson was owed \$90,731 by another ASPIRA-managed charter school. As of June 30, 2015, Stetson owed \$31,397 to four ASPIRA-affiliated entities.
- g. Of the six metrics of short-term and long-term financial health, Stetson's financial position was less healthy as of the end of FY2017 than as of the end of FY2015 in five of six financial metrics – Current Ratio, Average Cash Days on Hand, Net Position, Fund Balance, and Debt Ratio; only Total Margin showed improvement during that time period. During the 2016-2017 school year, Stetson was invoiced by ASPIRA for administrative services and charter management fees totaling \$3,437,773 or 28% of total revenues for Stetson in FY2017. In FY2015, Stetson

was invoiced \$1,117,976 for administrative services. In FY2017, Stetson was invoiced \$3,009,297 for administrative services.

- h. From FY2011 to present, Stetson's revenue and financial resources have been used for non-Stetson purposes, in violation of the Charter School Law and the Pennsylvania Nonprofit Corporation Law. Stetson was not financially independent from other ASPIRA-managed charter schools or from ASPIRA-affiliated entities. Stetson is obligated under security agreements, guaranties and other financial instruments to secure the debts of other ASPIRA-managed or ASPIRA-affiliated entities. As of June 30, 2017, Stetson had entered into security agreements pledging a portion of Stetson's assets to secure the debt of certain related parties. The holders of the debt and the outstanding liability balances are as follows:
 - o ASPIRA: Stetson's revenue has been included in the security interest of a \$800,215 line of credit loan issued to ASPIRA. The loan matured on October 1, 2016 and was extended through October 31, 2017. The balance of the loan as of June 30, 2017 was \$800,215.
 - o ASPIRA Community Enterprises, Inc. ("ACE"): Stetson is the guarantor of a \$5,005,005 mortgage loan issued to ACE for the acquisition and construction loan associated with the Antonio Pantoja Charter School. The balance on the loan was \$4,447,227 for year ended June 30, 2016 and \$4,354,757 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance.
 - o ACE: Stetson's revenue has been included in the security interest of a \$1,742,573 mortgage loan issued to ACE. The mortgage loan matures in August 2018. The balance on this loan was \$1,239,345 as of June 30, 2016 and \$1,061,735 as of June 30, 2017.
 - o ACE/Dougherty, LLC ("ACE/Dougherty"): Stetson is a guarantor and Stetson's revenue has been included in the security interest of a \$12,750,000 note payable issued to ACE/Dougherty for the acquisition, construction and renovation for a building for Eugenio Maria de Hostos Charter School. The balance on the loan was \$8,496,247 for year ended June 30, 2016 and \$8,154,432 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance. While both charter schools have service level agreements with ASPIRA, ACE/Dougherty does not provide services or resources that benefit Stetson.
- i. Upon request by the School District's Office of Auditing Services, Stetson failed to produce fully descriptive insurance claims made and insurance claims paid information.
- j. ASPIRA management failed to appropriately address questionable sampled attendance items for Stetson after identification by the School District's Office of Auditing Services.

RESOLVED, that there are substantial grounds for nonrenewal of the Stetson Charter; and be it

FURTHER RESOLVED, that the SRC will conduct a public hearing on nonrenewal of the Charter School's Charter commencing on or about April 1, 2018, subject to rescheduling, at which hearing the School District will present evidence in support of the grounds for nonrenewal of the Charter School's Charter, and the Charter School will be given the reasonable opportunity to offer testimony and exhibits in support of why the Charter School's Charter should be renewed; and be it

FURTHER RESOLVED, that the SRC hereby delegates its authority to conduct such public hearing either to a single Commissioner, to a Committee of two Commissioners or to a Hearing Officer to be appointed by the Chair of the SRC; and be it

FURTHER RESOLVED, that the SRC or a Board of Education for the School District will take formal action on the nonrenewal or renewal of the Charter following the hearing at a public meeting, after the public has had thirty (30) days to provide comments to the SRC or a Board of Education.

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: APM COMMUNITY CHARTER SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission (“SRC”) adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia (“School District”) by the applicant for the APM Community Charter School (“APMCCS”, “Applicant” or “Charter School”). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office (“CSO”) assists the SRC and the School District in meeting their legislative obligations under the Charter School Law (“CSL”) and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered “VI(f).” Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (APMCCS 1-1057).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "APMCCS."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 10, 2018. The public hearings were each stenographically recorded.³
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2NtISkJDWmQ4YXVGQk0/view.
 - b. The Application including all submitted attachments (APMCCS 1-1057);
 - c. The curricular documents attached to the Application in Attachment 1, which are not yet bates stamped);
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (APMCCS 1058-1090);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (APMCCS 1091-1106);
 - f. The concluding document filed by the Applicant (APMCCS 1107-1115);
 - g. Public comments received by the SRC during the advertised public comment period (APMCCS 1116-1130); and
 - h. Transcripts from the hearings held on December 18, 2017 and January 10, 2018.

10. Supplemental materials were not accepted following receipt of any of the new applications.

The 2017-2018 application form published by the School District specifically states on

³ The Notes of Testimony from the two hearings will be referred to as "12/18/17 N.T. ____" and "1/10/18 N.T. ____", respectively.

page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

11. The Applicant is Asociacion Puertorriquenos en Marcha, Inc. (“APM”). APM, or a related entity created by APM, is the proposed management company for the Charter School. (APMCCS 51).
12. The name of the proposed charter school is the APM Community Charter School. (*See e.g.* APMCCS 1).
13. The Charter School seeks a five-year charter for the school years 2018-2019 through 2022-2023 to be located at 405-07 E. Roosevelt Boulevard, Philadelphia, Pennsylvania, 19120. (APMCCS 1-2, 10, 54, 74).
14. The Charter School plans to open in year 1 with serving 312 students in Kindergarten through 4th grade. Thereafter, the Charter School would add one grade per year; by year 5, the Charter School would serve 624 students in Kindergarten through 8th grade. (*Id.*)
15. The Charter School would be a city-wide admission school.
16. If more students apply than the Charter School has seats available, the Charter School would utilize a lottery system. According to the Application’s narrative, the lottery system proposed, called the “family card” system by the Applicant, is unlike any in use in Philadelphia; the system would allot one “card” to each family attempting to enroll more than one child in the school, rather than one card per student. (APMCCS 57). This family card system was not reflected in the admissions policy, however. (APMCCS 351-352).
17. The Applicant’s “Student Admission and Enrollment” Policy requires students to complete a registration packet that includes the following forms: (i) registration form that includes

basic information about the student and pertinent phone numbers; (ii) medical forms including the child's medical history, which must be submitted for all students within the first 30 days of attendance; (iii) record release form; (iv) home language survey; and (v) parent volunteer form. (APMCCS 351-352). As noted by the CSO in its Evaluation Report:

Required enrollment documents are not compliance with Pennsylvania guidelines in that the Charter School requires documents for enrollment that are not permitted to be required for enrollment (e.g. medical and dental records, records release). Additionally, contrary to Pennsylvania guidelines, the Charter School would not require a parent or guardian to submit immunization records until 30 days after enrollment. Under Pennsylvania guidelines, parents or guardians must have evidence of required immunizations within five days of starting school and immunization records are required for enrollment.

(APMCCS 1102).

Community School Model

18. According to representations in the Application, the Charter School "will be a true full-serve community school, bringing together community partners to offer a range of services and supports to students, their families and the surrounding communities." (APMCCS 12). The community school model will create "an integrated focus on academics, health/social services, youth development and community engagement" (APMCCS 9).
19. The Applicant does not identify what services will be provided at the Charter School in the way of health/social services, or what service providers would partner with the Charter School to provide such services, either on-site or off-site. The Application is replete with generic references to "partners" in this regard, but never identifies or provides any memoranda of understanding with any partners for the "community school" aspect of the programming. When the Applicant was asked at the second hearing to identify the "specific services that your partners will provide within the walls of the charter school and

by whom”, the Applicant replied: “At this point, we don’t have all of that detail.” (1/10/18 N.T. 26).

20. The Application touts a partnership with Temple University and Taller Puertorriqueno (“TP”) for STEAM programming. (APMCCS 13, 20). This partnership, however, is for after-school programming, offered to parents on a \$100 per month fee basis. (APMCCS 13, 20). Temple and TP will not be providing any services during the school day. (1/10/18 N.T. 29-30). The Applicant anticipates 200 students (out of the 312 enrollment in year 1) would participate in the after-school programming. (*Id.* at 39).

Curriculum and Educational Programming

21. The Applicant represented that both technology and the arts will be integrated and infused into all areas of the curriculum. (APMCCS 9, 16).
22. Regarding the proposed approach to language instruction, the Applicant stated as follows: “We will implement an approach to language instruction whereby the student’s native language is used to support English proficiency acquisition in a context that values their cultural heritage while those from English-speaking families simultaneously learn Spanish through informal interactions with classmates, as well as through formal instruction.” (APMCCS 13).
23. The Applicant anticipates an English Learner (“EL”) population ranging anywhere from 6-22% of total enrollment, or 19-69 potential ELs in year 1. (APMCCS 54, 1100).
24. According to the Application, direct instruction to ELs will be provided by a certified English as a Second Language (“ESL”) specialist. The Applicant’s budget and staffing plan for year 1 includes an EL coordinator but does not include any ESL teachers. (APMCCS 32, 45, 486). A part-time ESL teacher is not included in the budget until year

- 3, at a point in time when the Applicant anticipates 28-103 EL students would be enrolled. (APMCSS 1100; 1/10/18 N.T. 65-66).
25. The Application did not include any comprehensive curricular documents for ELs and newcomer students; nor did the Application identify how the Charter School would integrate necessary language acquisition instruction with a standards-aligned curriculum. These deficiencies were noted by the CSO in its Evaluation Report. (APMCCS 1097).
26. The Charter School would have a restorative practices approach to student discipline. In addition, the Charter School would utilize a Responsive Classroom model to emphasize social-emotional and academic learning. (APMCCS 10, 18, 29-31, 87-89).
27. The Application contains conflicting information about the professional development (“PD”) to be provided to the new staff hired by the Charter School. The PD plan describes the Year 1 PD to include “two weeks of intensive PD” in August 2018 and at least one full day per month of PD during the school year. (APMCCS 292-293). The school calendar for the 2018-2019 school year, however, indicates staff orientation/PD scheduled for August 16-24 (7 work days) and only half days scheduled each month other than September for PD, with the exception of November 2018 when one full day of PD is scheduled. (APMCCS 295-297).
28. The PD Plan does not describe or outline the specific topics that would be addressed during the summer intensive PD or during the school year, and does not describe who would provide the PD. (APMCCS 292-293).
29. The CSO presented an Evaluation Report of the Application at the January 10, 2018 hearing. (APMCCS 1091-1106). The following observations by the CSO regarding the

curriculum, educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

The applicant provided a comprehensive EL policy addressing Pennsylvania regulations that includes identification and existing, but did not clearly present how the proposed curriculum will be appropriately adapted to serve all learners. Evaluators noted the absence of comprehensive curricular documents for EL and newcomer students and how the proposed Charter School would integrate necessary language acquisition instruction with a standards-aligned curriculum. The application narrative states, “existing content area curriculum for native speakers will be adapted for EL students” (page 10); however, evaluators did not find this to be a detailed plan expressing the integration of EL/Dual Language materials into the identified curricular documents across all content areas. The absence of a fully developed plan to serve ELs and a detailed Language Instruction Educational Program (LIPE) with all components as required by Pennsylvania regulation is of particular concern given the proposed Charter School’s mission and target community. . . .

With the exception of art, physical education, social studies, and technology, the application included scope and sequence documents, unit plans, lesson plans, and assessments for all grades and subject (sic) proposed in Year 1. The curriculum provided, however, does contain deficiencies across grades and content areas. Most significantly, the proposed ELA curriculum does not fully align to the PA Core. ELA curriculum maps submitted for kindergarten through grade 6 do not clearly present standards including, but not limited to: phonics and word recognition (1st grade), fluency (3rd grade), and range of writing (6th grade). Across the core content areas (ELA, math, science, and social studies), there is a lack of alignment between the chosen publisher programs/materials and curriculum maps. As an example, the applicant proposes the implementation of Eureka Math as the math curriculum for kindergarten through grade 8, but as presented in the relevant attachments, the curriculum is not fully aligned with Pennsylvania Academic Standards across grade levels . . .

The extent to which standards were aligned in other content areas varied. Evaluators found that the proposed curricula for art, physical education, health, music, social studies, world language (Spanish) and technology include many, but not all, grade level Pennsylvania Academic Standards . . .

Regarding implementation, the application does not provide clear and consistent evidence of budgetary support for low student to teacher ratios, which is cited by the applicant as a way they would seek to differentiate instruction. Moreover, although the application states that technology and arts will be integrated

throughout the curriculum (page 6), the application does not reference details about the technology that will be used to support personalized learning including specific intervention software.

* * *

As stated in the application, the Charter School intends to implement both Responsive Classroom and Restorative Practices systems. The Responsive Classroom model description provided in the application is verbatim from the website of the sponsoring organization; however, APMCCS did not provide any description of how that system would be effective for the population the Charter School intends to serve nor specifically how it would be integrated into the APMCCS educational model. Further, the only mention of training for staff on these systems is during the two weeks before school starts as one of the pre-school year trainings. There is no mention of staff or leadership attending off-site training or workshops for implementation or ongoing development on these systems nor contracting with expert trainers to train staff off site. There is no indication of how the school leaders would assess the need for ongoing development of and/or success of the system. As these systems form the primary culture and climate models to be used by APMCCS and as the applicant proposes a community school model which relies significantly on school climate, assessing, reflecting and improving the Responsive Classroom model is a major piece that is missing from this plan. Evaluators also noted that assessment of teachers and staff in using this system is not included in any formal or informal observation processes.

In addition to the above concerns, the inclusion of Restorative Discipline Practices is represented only as a general description of the philosophy with only minimum mention of the methods associated with the system. Effective implementation of Restorative Discipline Practices, as with Responsive Classroom, requires significant front-loaded staff training, as well as ongoing staff training, assessment and reflection. The use or identification of the uniform questions for those that have harmed the community and those who were harmed is not identified, nor are the key processes of bringing parties together to restore relationships when possible.

(APMCCS 1097-1100).

30. The Pennsylvania Academic Standards in Arts and Humanities address what students are supposed to know at the end of grades 3, 5, 8 and 12. See, http://static.pdesas.org/content/documents/Academic_Standards_for_the_Arts_and_Humanities.pdf. Because APMCCS would open with K-grade 4 in year 1, the expectation would be for the Application to include curriculum in the Arts establishing alignment for grade 3 expectations. The only third grade standard addressed in the Arts curriculum is

9.1.3.A. (Attachment 1, Art_CurriculumMap_3). The Application documents do not provide evidence of the other Arts and Humanities standards, namely those standards in 9.2 (Historical and Cultural Contexts), 9.3 (Critical Response), and 9.4 (Aesthetic Response).

31. The English Language Arts (“ELA”) curriculum maps for K-grade 6 contain gaps in comparison to the PA Core Standards.
32. The scopes and sequences for Technology found in Attachment 1 provide an outline of various skills that students would undertake related to State standards. However, the scope and sequence does not identify how and when each standard will be taught, learned, and assessed. For example, the scope and sequence does not indicate any particular subject in which the objectives would be implemented or in what lesson or unit the objectives would be assessed.
33. The Application narrative states that 7th and 8th graders will rotate among small group instruction with the teacher, independent work, collaborative activities and online learning. (APMCCS 13). In addition, various community support letters identify the Charter School as one in which students would be engaged in “blended learning”. (See e.g. APMCCS 693-697). When asked at the second hearing about what type of online or blended learning students would engage in, the Applicant stated that “Initially, we were thinking of including blended learning; however, being that Pennsylvania is more standard based, we decided to stay with the standard based curriculum.” (1/10/18 N.T. 42-43).

Financial Planning

34. A detailed staffing plan was produced in the Application narrative. (APMCCS 44-45). However, that staffing plan could not be compared to the budget because the budget

lumped multiple positions together into general categories, rendering it impossible to ascertain the positions contemplated in year 1 and the remainder of the Charter term, and the corresponding salaries and benefits for those positions. (APMCCS 486). At the second hearing, the Applicant explained that the budget submitted with the Application was not the detailed budget showing the various positions, salaries and benefits. (1/10/18 N.T. 111, 118). The Applicant did not attach the detailed budget to the Application.

35. The staffing plan identified 42 positions to be hired in year 1. In comparison, the budget identified 67.8 positions in year 1. (Cf. APMCCS 45, 486). At the second hearing, the Applicant stated that 77.5 positions are included in the detailed budget, which was not submitted. (1/10/18 N.T. 106).

36. The Charter School's staffing plan identifies the position of "fiscal manager" as a 1.0 Full-time equivalent position in year 1. (APMCCS 45). At the hearing, the Applicant indicated that this position is budgeted to only be part-time in year 1. (1/10/18 N.T. 106-107). The Applicant further explained that the Applicant did not update the narrative correctly as the budget was being adjusted. (*Id.* at 107).

37. The Applicant's budget includes Individuals with Disabilities Education Act ("IDEA") revenue of \$31,658.64 and health services reimbursement of \$5,982. (APMCCS 486). IDEA revenue and the health services reimbursement, however, are on a one-year lag, awarded based on prior year enrollment. (APMCCS 1103). The Charter School would not be eligible for such funds in year 1.

38. An additional \$71,000 in revenues for Sinking Fund payments and lease reimbursement were included in the budget without justification for the receipt of those amounts. (APMCCS 486). The CSO found that the total amount would be double what should be

anticipated - \$36,500 – given APMCCS’s intent to lease the facility from APM Properties, Inc. (APMCCS 1103).

39. Even with the inclusion of the improper amounts identified above in the budget, the year 1 budget projects an ending deficit of \$298,614.42. (APMCCS 487). The Applicant anticipates funding such deficits through the receipt of a line of credit taken out by APM, but revenue from the line of credit and the repayment of the line of credit funds are not reflected in the budget. (1/10/18 N.T. 97-100).

40. The Charter School’s employees will not participate in the Public School Employees Retirement System (“PSERS”); rather, an Internal Revenue Code Section 403(b) plan will be developed through which employees will make tax-deferred contributions. The Charter School would contribute an employer match of 7.5%. (APMCCS 51). The Applicant did not submit any actual 403(b) plan documents with the Application. The 403(b) plan does not currently exist and would need to be created. (1/10/18 N.T. 142).

41. The CSO rendered a number of conclusions regarding the Applicant’s financial planning, which the SRC finds to be credible and hereby adopts:

Evaluators note several concerns in the Facility and Finance section. There are a number of unsubstantiated revenue assumptions which is of further concern as the Year 1 budget identifies a 7.3% operating *deficit*. The applicant assumes federal (IDEA and Title IIA) and state (health services reimbursement) funding but reviewers question eligibility and/or receipt in Year 1; the total of these federal and state funding revenue amounts in question for Year 1 is \$47,820.24. Revenues proposed for lease reimbursements and Sinking Fund Programs are newly double what would be anticipated (\$36,500 vs. \$71,000). Applicant did not justify the calculation regarding the Sinking Fund Programs. Further, evaluators were unclear about APMCCS’s eligibility for these funds as the Charter School would not own the building

Regarding expenditures, evaluators noted significant concerns regarding personnel. In addition to the previously reference concerns regarding the level of staffing for ELs . . . , the FTE count in the budget (67.8 less 24.3 for After School Program = 43.5) does not match the position count in the narrative (42, 44 if the four part-time

positions are at 0.5 FTE). Additionally, there are 0.5 more teacher assistants in the budget than identified in the application narrative. The budget provides for summary by category (administration, regular teachers) but does not identify salary and benefits by position. The budget identifies an administration average salary of \$42,500 for 7.5 FTE but it is not stated what positions are included. For school leadership team members, this average salary is far below charter sector and District averages and is non-competitive. Teacher assistant average salary as budgeted is \$14,013.82/year. This also appears to include the Case Manager (listed as Counselor in budget worksheet) which evaluators expect to be paid at a significantly higher salary based on the qualifications and duties stated in the application (page 19). The average teacher assistant, which to support the co-teaching model should be more than a 0.5 FTE, would then on an hourly basis receive a wage of \$6.87/hour for 2040 hours or \$10.27/hour using 195 days for staff/teachers, 7 hours/day. Evaluators found that this level of salary would challenge attraction and retention of qualified, experienced personnel especially if they also expected to be bi-lingual to support the instructional program. The "Nurse" position is identified as contracted in the application narrative; however, as represented in the budget (\$40,000) this rate of contracted services is low or 312 students in Year 1 as a FT nurse would be expected. Additionally, there is also a "School Doctor" described in the narrative as carrying out examinations, but this is not budgeted, and if the fees are to be under the Nurse budget line, the sufficiency of this amount is further questioned. There is no budgeted expenditure for food service (sic) however, the application identifies food service to be contracted (page 53) and additional a 0.5 food service worker is listed in the application narrative for Year 1, increasing to 1 FTE in Year 2, and 2 in Year 5.

All benefits costs assume that all employees, including After School Program Staff, would be offered benefits. It is unclear to the evaluators if this is planned. The overall benefits rate budgeted is 25%. Bureau of Labor Statistics averages are 35% for public schools and 30% for private schools. A rate of 25% is more in line with national averages for the services industry, not education. Medical benefits per employee is budgeted at less than \$6500/employee, which is lower than national averages (~\$12,000 for family HMO plans and \$5500 for single coverage). Page 62 of the narrative cites assumed yearly increases for health insurance benefits, which range from 2.68% for Year 2 to 4.63% for Year 5. These assumptions are well below the assumptions for the District as well as national survey results collected by Mercer in their 2017 National Survey of Employer-Sponsored Health Plans, Willis Towers Watson's Best Practices in Health Care Employer Survey, and projections developed by PricewaterhouseCoopers' Health Research Institute . . .

(APMCCS 1103-1104).

Governance Issues

42. The Application's narrative states that an Limited Liability Company ("LLC") would be set up by APM to serve as the Charter School's management company. APM would be the sole member of the LLC. (APMCCS 51-52, 66). According to statements made at the second hearing, APM intends to set up an LLC, which APM will run. To date, however, an LLC has not yet been established, nor does the Applicant know what the name of the LLC will be. (1/10/18 N.T. 85-86).
43. The proposed management contract submitted by the Applicant is a contract between the Charter School and APM (not a separate LLC). (APMCCS 471-483).
44. The management contract indicates that a document should be attached as Exhibit A, and that Exhibit A should contain all of the additional administrative services to be provided by APM. (APMCCS 474). Exhibit A was not attached to the management contract, however. The Applicant stated at the second hearing that Exhibit A is a four-page document, and that the failure to attach Exhibit A was "an oversight". (1/10/18 N.T. 124-125).
45. The management fee would be 10% of the local school funds that the Charter School receives directly or indirectly for the students enrolled. (APMCCS 474). The fee would be based upon the provision of services generally described on APMCCS 472-474, including the services that are supposed to be identified in Exhibit A. As noted by the CSO in its Evaluation Report, many of the services to be provided by the management company would be the same as those duties and services to be provided directly by individuals employed in positions at the Charter School (fiscal manager, accounting clerk, IT technician, maintenance supervisor), even though APM would be receiving compensation

to provide these same services. (APMCCS 1104). For example, a number of the duties outlined in the management contract related to procurement, budgeting and financial reporting are also the identified duties of the Charter School's fiscal manager, pursuant to the representations in the Charter School's financial procedures and policies. (Cf. APMCCS 472-473 with APMCCS 494, 503, 507, 509). The contract indicates that APM would provide "all information technology services" (APMCCS 472), but the Charter School is proposing to hire a part-time IT technician in year 1, with a full-time IT technician hired starting in year 2. (APMCCS 45). APM is slated to provide Facility Operation and Maintenance, but the Charter School intends to hire a full-time Maintenance Supervisor and cleaning aide in year 1. (Cf. APMCCS 45 with APMCCS 472).

46. Paragraph 4.01 of the management contract states as follows:

4.01 Supplemental Programs Provided by APMCCS. APMCCS may provide or contract for services, including, but not limited to, pre-kindergarten, summer school, academic camps, before and after school programs, vocational training, and community programs to students and non-students of APMCCS. APMCCS will be responsible for the full cost of providing such Charter School Programs, and all profits (gross revenues less direct costs of such Supplemental Programs) received by APMCCS from such programs shall be deemed Other Revenue Sources as defined in Section 3.04 above, and APM shall receive a Business Services Fee equal to 12% of any such funds in accordance with Section 3.01 above.

(APMCCS 476).

47. Donald Price ("Price"), APM's Director of Operations, on behalf of the Charter School's Board of Trustees, will supervise and evaluate the Charter School's Principal. (APMCCS 42, 46, 224, 264). Price does not have an educational background or experience serving as an administrator of a K-12 school. (1/10/18 N.T. 83). In the Applicant's concluding document, a representation is made that Price will supervise the Principal but not in the

“instructional domain” as that domain “is entirely within the authority of the Principal”. (APMCCS 1112).

48. In addition to Price, the Principal will be supervised by the Executive Committee of the Charter School’s Board of Trustees, as opposed to the full Board. (APMCSS 425). The Executive Committee may act on behalf of the Board on matters not expressly reserved for the Board. (*Id.*)
49. Under the arrangement currently proposed, APM will serve as the management company for APMCCS, the landlord of the facility to be used by APMCCS, and the guarantor or procurer of the \$1 million loan or line of credit to support APMCCS’s operations.
50. Nilda Ruiz (“Ruiz”) is the President and Chief Executive Officer of APM. She is the incorporator of APMCCS and will name individuals to serve on the initial Board of Trustees for the Charter School. (APMCCS 62, 63).
51. APM Properties, Inc. (“APM Properties”), will purchase the proposed facility for the Charter School and then rent the proposed facility to the Charter School. APM Properties is governed by APM’s Board. (APMCCS 74; 1/10/18 N.T. 133). According to APM’s Consolidated Financial Statements for year ending June 30, 2016, submitted with the Application, the “primary purpose of APM Properties, Inc., is to be a title holding company for APM which is required to turn over the excess of its revenues over expenses to APM annually.” (APMCCS 605).
52. The Applicant submitted a “Term Sheet for Lease” prepared by APM Properties and signed by Rasak Azeez (“Azeez”), CFO of APM Properties. Azeez is also CFO of APM. (1/10/18 N.T. 19). The Term Sheet for Lease was signed by Ruiz on behalf of APMCCS, even

though she is also President and Chief Executive Officer (“CEO”) of APM. (APMCCS 686).

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 SRC examines the 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, of meeting the standards articulated by CAB and the appellate courts in Pennsylvania.

Governance Structure

Pursuant to the Pennsylvania Supreme Court’s direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school may not be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school’s ability to exercise its rights, including cancellation of the contract between the two entities. *Id.*

The current structure and relationship between APM and the Charter School raises concerns about the independence of the Charter School. The first concern relates to the proposed management contract for the Charter School. Ruiz, the President and CEO of APM, has incorporated APMCCS and will appoint the initial board for APMCCS. APM, or a new LLC to be established by APM, will serve as the management company of APMCCS. However, the management contract submitted, which is between APMCCS and APM, cannot be the final version of the management contract because the Applicant intends to form an LLC to perform the management services, but the new LLC entity indicated in the management contract. In addition, the version of the management contract attached to the Application was incomplete, in that it did not attach a key document – the four-page Exhibit A – that identified additional services that the management company would provide to the Charter School.

The SRC also finds that the Application contains inconsistent references to the duties of in-house employees of the Charter School versus the services to be undertaken by the management company, on which the 10% management fee is based. Based upon the information in the Application, the delineation of services and duties contains significant overlap between the management company and the Charter School's employees. As a result, the management company would receive compensation for services that would be undertaken by Charter School employees with little to no role of the management company. Similarly, the fee included in the management contract includes the supervisory role by Price over the Principal, but Price is not qualified to, and according to the concluding document, will not supervise the instructional program for purposes of evaluation of the Principal.

Paragraph 4.01 of the management agreement raises additional concerns about the use of the Charter School's funding. Under Paragraph 4.01, APM would be entitled to 12% of any profits

(net revenue) related to the after-school programs or other supplemental programs operated by the Charter School without any indication that APM would have any role in or responsibility for the provision of services for such programs. According to the unambiguous language in Paragraph 4.01, APM is entitled to such a fee even where “APMCCS will be responsible for the full cost of providing such Charter School Programs . . .” (APMCCS 476). As a result of this provision, the Charter School would end up disbursing Charter School funds to APM without any benefit to the Charter School itself, which would be a violation of 24 P.S. § 17-1714-A(4) (requiring charter schools to “receive and disburse funds for charter school purposes only”).

The Bylaws further indicate that APMCCS’s Board will have an Executive Committee, which will take on functions of the Board of Trustees as a whole. The Charter School’s Board is statutorily required to hold the powers described in 24 P.S. § 17-1716-A; committees established by the Board do not hold such powers. The documents submitted with the Application did not provide evidence that the Board as a whole would maintain all of the powers set forth in Section 1716-A. The Executive Committee and these other committees appear to be able to make decisions without subsequent ratification by the Board as a whole in violation of the CSL.

APM Properties, an entity controlled and governed by APM, would also serve as the Charter School’s landlord. Ruiz signed the lease terms on behalf of APMCCS, but she is the President and CEO of APM. According to APM’s own audits, APM Properties is required to turn over any excess of revenues over expenses to APM annually. The Applicant did not disclose the purchase price that APM would be paying to acquire the St. Ambrose Church property for the Charter School’s use or any costs to renovate or improve the property. Thus, the SRC and the CSO could not evaluate the proposed rent of \$14 per square foot to ascertain whether the lease terms reflect reimbursement solely for APM Properties’ costs or also for additional sums. Without

such information, and in light of the other concerns noted here, the totality of the record raises concerns as to whether the Charter School's rent would be based on fair market value or whether it would be subsidizing the operations of APM or APM Properties.

These details establish that the Charter School has not taken sufficient steps to ensure the independence of the various APM entities. As noted by the Commonwealth Court in a decision issued in May, 2017, "[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities." *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, 162 A.3d 591, 598 (Pa.Cmwlth. 2017). The circumstances identified here do not provide assurances that the relationship between the Charter School and APM would be one of arms-length transactions.

For all of the reasons set forth in the section above, the SRC finds the proposed governance structure violates the CSL. APMCCS should not be permitted to open while such problems continue to exist.

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. The submission of curriculum 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.

Various curriculum concerns raised by the Application are outlined in the factual findings above. The absence of evidence of technology and art integration throughout the curriculum, a foundation of the school's model, is a deficiency in the Application. Evaluators noted several gaps in alignment with the PA Core standards and PA Academic Standards in various areas, particularly in ELA and art. Unit plans were not provided for art, physical education, social studies, and technology. In addition, given the significant number of ELs anticipated to be educated at the school beginning in year 1, the lack of curriculum for ELs is a glaring omission.

Another material deficiency in the Application relates to the Charter School's "full-service community school model", which the SRC finds to be the least developed part of the Application. The Applicant could not identify the services that it would offer to students and their families on-site at the Charter School under the community school model. Further, the Application does not identify what partners would provide the actual services (other than the coordination efforts of the Case Manager); whether the services would be provided on-site or off-site; or whether parents and students would be charged for the various types of services.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents and information about the non-tradition elements of its model that meet the standards set by the CSL and CAB. The curricular documents submitted do not evidence that the Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4.

English Learners

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. Prior to the submission of the 2017 Application, on July 1, 2017, the Pennsylvania Department of Education reviewed and re-issued its Basic Education Circular (“BEC”) on *Educating English Learners (ELs)* pursuant to 22 Pa. Code § 4.26. The BEC on *Educating English Learners* states in pertinent part:

The purpose of this circular is to provide local education agencies (LEAs) with the requirements and interpretations of the legal mandates governing the education of students who are English learners (ELs). The information included should be used in designing, staffing, and evaluating effective programs for ELS. These mandates and interpretations are based on the Pennsylvania Regulations, Chapters 4 and 11; and on federal law, including Title VI of the Civil Rights Act, the Equal Educational Opportunity Act (EEOA), the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), and regulations and case law under those statutes.

BEC at 1.

The Applicant’s staffing to serve ELs is deficient. Not a single ESL teacher is identified in the staffing plan until year 3, even though the Charter School intends to be a city-wide admission schools and anticipates an EL incidence of 6-22% of enrollment.

Given the significant percentage of ELs in the targeted student population, these concerns are additional deficiencies in the Applicant’s planning because such deficiencies evidence a lack of preparedness or awareness of staffing and programming necessary to provide required English language instruction to ELs.

Financial Planning

An item that must be addressed in an 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 Docket 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 Docket No. 2009-04, at 12; *Voyager Charter School*, CAB Docket No. 2005-09. The budget must be complete, and must clearly identify a plan to address start-up expenses and the source of such funds. *New Castle Arts Academy Charter School v. New Castle Area School District*, CAB Docket No. 2014-14. 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 Docket No. 2003-3.

The budgetary information supplied as part of the Application is incomplete and inconsistent with the information provided in the Application narrative, facts admitted by the Applicant during the hearing. In addition to the fact that the budget is incomplete and contains errors identified above, the budget also contains revenue streams that a charter school would not be able to obtain in year 1. The projected budget deficit in year 1 of almost \$300,000 provides compelling evidence that the Applicant did not properly address a fiscal plan prior to submitting the Application.

The Applicant indicated that it did not intend to have its employees participate in PSERS, but rather in an Internal Revenue Code Section 403(b) retirement plan. The CSL states as follows: "All employees 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 does not have an alternative retirement program in place that covers prospective employees of the Charter School. Until such time as a 403(b) plan is approved for the Charter School, the Charter School must participate in PSERS, and the Charter School has not properly budgeted to do so.

All of these budgetary deficiencies are indicative of problems in the Applicant’s financial planning and the Applicant’s ability to provide a comprehensive learning experience.

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 SRC 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 concerns are discussed in Part A 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 SRC fully discussed its conclusions about the Charter School’s proposed curriculum and programming in Part A above. The SRC reiterates herein that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4.

3. Section 1719-A(6) – The Admission Policy And Criteria For Evaluation
The Admission Of Students . . .

The Applicant's "family card" lottery process was not consistently stated throughout the Application documents. If the Applicant intends to use such a family card process,⁴ the SRC concludes that such a system would violate the enrollment requirements of the CSL, which requires each student to receive an equal opportunity to enroll. "If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school . . ." 24 P.S. § 17-1723-A(a). Giving a "card" to one family with multiple children seeking enrollment dilutes the opportunity that any child in that family (and by extension their siblings under the sibling preference) would have to enroll in year 1, in comparison to the opportunity that a family with only 1 child seeking enrollment would have. Such a proposal is inconsistent with the CSL requirements.

Moreover, the Applicant's proposed admission and enrollment policy requires the submission of documents on which enrollment cannot be premised, namely the medical and dental information and the records release form. Enrollment in a public school cannot be premised on the submission of those documents. On the other hand, enrollment in a charter school can be premised – and with respect to immunizations – must be premised on requirements that parents submit proof of age; proof of residency; immunization records; and a parent registration statement regarding the student's suspension or expulsion status. 24 P.S. § 13-1304-A(a); 22 Pa. Code § 11.11(b); 28 Pa. Code Ch. 23 (relating to school immunizations). PDE's Basic Education Circular

⁴ The Applicant expressed some reservations about using the "family card" system in its concluding document, but did not expressly say that it would not utilize such a system. (APMCSS 1112).

(“BEC”) entitled “Enrollment of Students” requires five categories of information to be submitted “whenever a child of school age is presented for enrollment by a parent(s), school district resident, or any other person having charge or care of the child”. The five categories of information are: (1) proof of the child’s age; (2) immunizations required by law; (3) proof of residency; (4) parent registration statement; and (5) home language survey. APMCCS’s propose enrollment policy does not address four of those five required documents; the only required document referenced is the home language survey.

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

As explained more fully above, material concerns exist regarding the financial planning of the Charter School.

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 identifying the specific PD sessions to be provided; who would provide such PD; the resources that would be used; or the knowledge and skills that would be addressed in order to implement the programming described in the Application. 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 PD Plan attached to the Application discusses the development of a PD Plan and contains a one-sentence description of some topics to be covered during the “[t]wo weeks of Intensive [PD] (August 2018)”. (APMCCS 292). However, the Applicant never provided the specific details about the programming that would be provided or to whom. The proposed school calendar does not reflect the various representations about the amount of PD to be provided to staff. 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 PD 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.

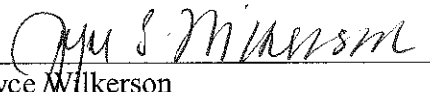
Pursuant to Section 1717-A(e)(2)(iv) of the CSL, the School District must evaluate the Charter School's Application with regard to the "extent to which it will serve as a model for other public schools." 24 P.S. § 17-1717-A(e)(2)(iv). The SRC has reviewed the totality of materials submitted by the Applicant, the evaluation documents provided by the CSO and the other documents noted in the record above. Because of the deficiencies noted in the Sections above, the SRC must conclude that the Applicant is not prepared to serve as a model for other public schools in those areas where deficiencies are noted.

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ORDER

For the reasons set forth above, the 2017 Application to create the APM Community 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).



Joyce Wilkerson
Chair

RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for APM Community Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 10, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 624 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: EUGENIO MARIA DE HOSTOS PREPARATORY CHARTER SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia ("School District") by the applicant for the Eugenio Maria de Hostos Preparatory Charter School ("Hostos Prep", "Applicant" or "Charter School"). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office ("CSO") assists the SRC and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (EMDHPCS 1-1703).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "EMDHPCS."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 29, 2018. The public hearings were each stenographically recorded.
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2Nt1SkJDWmQ4YXVGQk0/view.
 - b. The Application including submitted attachments except Attachment 1 (EMDHPCS 1-1703);
 - c. Attachment 1 containing the Applicant's curricular documents, which has not yet been bates stamped;
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (EMDHPCS 1704-1723);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (EMDHPCS 1724-1749);
 - f. The Experienced Operator Addendum supplied by the CSO for the schools that are managed by ASPIRA, Inc. of Pennsylvania ("ASPIRA"), which was marked as School District Exhibit No. 2 (EMDHPCS 1750-1758);
 - g. Public comments received by the SRC during the advertised public comment period (EMDHPCS 1759-1771);
 - h. The concluding document filed by the Applicant (EMDHPCS 1772-1789); and
 - i. Transcripts from the hearings held on December 18, 2017 and January 29, 2018.

10. ASPIRA filed two applications by November 15, 2017 – the Hostos Prep Application and an application for the Antonia Pantoja Preparatory Charter School (“Pantoja Prep”). Because of overlap related to the two applications, the Applicant and its counsel agreed that the transcripts from the Pantoja Prep hearing and the Hostos Prep hearing could be incorporated into the records for each application. (1/29/18 HP N.T. 4-5). The January 29, 2018 Pantoja Prep transcript will be referred to as “1/29/18 PP N.T. ___” and the January 29, 2018 Hostos Prep transcript will be referred to as “1/29/18 HP N.T. ___”.
11. Supplemental materials were not accepted following receipt of any of the new applications. The 2017-2018 application form published by the School District specifically states on page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

12. The entities applying for the Charter School are ASPIRA and “Eugenio Maria De Hostos Charter School”. (EMDHPCS 1).
13. The Antonia Pantoja Charter School (“Pantoja”) and the Eugenio Maria de Hostos Charter School (“Hostos”) are both existing charter schools operating in Philadelphia and managed by ASPIRA.
14. The Applicant did not address all of the components of the 2017-2018 New Charter Application. (EMDHPCS 1736).
15. The Charter School seeks a five-year charter for the school years 2018-2019 through 2022-2023. (EMDHPCS 2). Hostos Prep would open in year 1 with as a K-8 school serving 750 students. Thereafter, the Charter School would continue to operate as a K-8 school, with enrollment increasing to 850 students in year 2. (EMDHPCS 50-51). Conflicting

information was provided in different pieces of the Application as to the enrollment at scale – the at-scale enrollment was inconsistently identified as 850 and 900. (EMDHPCS 2, 65, 1019, 1705). The Applicant stated at the second hearing that enrollment at scale would be 850. (1/29/18 HP N.T. 30-31).

16. The Student Code of Conduct attached to the Application is for Hostos, not Hostos Prep. (EMDHPCS 311).

17. The Student Code of Conduct contains a “Bullying/Cyber Bulling (sic) Policy”. The bullying policy contains the following expulsion procedures:

1. The Board of Trustees (or designee) may conduct an expulsion meeting or may appoint an expulsion examiner to conduct an expulsion meeting.
2. An expulsion will not take place until the student and the student’s parent/guardian are given written notice of their right to appear at an expulsion meeting. Failure to request and/or to appear at this meeting will be deemed a waiver of rights administratively to contest the expulsion.
3. If an expulsion meeting is timely requested, the principal (or designee) will present evidence to support the charges against the student. The student/parent will have the opportunity to answer the charges against the student and to present evidence to support the student’s position. An attorney may not represent the student at the expulsion meeting, but the attorney may be available for consultation outside the meeting room during the course of the expulsion meeting.
4. If an expulsion meeting is held, the expulsion examiner will make a written summary of the evidence heard at the meeting, take any action found to be appropriate, and give notice of the action taken to the student/parent.
5. The student/parent has no right to appeal an expulsion decision to the school board as the school board has voted not to hear student expulsion appeals.

(EMDHPCS 340).

ASPIRA

18. ASPIRA currently serves as the management organization for Hostos, Pantoja, John B. Stetson Charter School (“Stetson”); Olney Charter High School (“Olney CHS”), and ASPIRA Bilingual Cyber Charter School. (EMDHPCS 1750-1758).

19. On December 14, 2017, by Resolutions Nos. SRC-8 (“SRC-8”) and SRC-9 (“SRC-9”), the SRC voted to approve the institution of nonrenewal proceedings against Olney CHS and Stetson. Copies of SRC-8 and SRC-9 are attached hereto as Appendixes A and B, respectively.
20. The charges contained in SRC-8 and SRC-9 include, *inter alia*, governance issues related to the board structure in place for all of the ASPIRA-managed schools, bylaw compliance, transactions among the ASPIRA-managed schools, fees charged by ASPIRA that were not explicitly disclosed in the management agreement, and issues pertaining to the internal controls in place.
21. Hearings related to the charges in SRC-8 and SRC-9 are pending at this time.
22. Hostos and Pantoja are both in the renewal cohort currently under review by the CSO in the 2017-2018 school year. See <https://www.philasd.org/charterschools/renewal/>.
23. The SRC is not the authorizer of ASPIRA Bilingual Cyber Charter School.

Curriculum and Educational Programming

24. The proposed curriculum and instructional model for Hostos Prep is the same as the curriculum and instructional model proposed for Pantoja Prep. Both schools would serve the same grade levels. Both schools have the same mission.
25. Attachment 37 to the Application contains an English Language Learner (“ELL”) Manual. (EMDHPCS 1665-1699). The ELL Manual reflects programming at the existing ASPIRA-managed schools, but does not address programming to be provided at Hostos Prep. The ELL Manual is not compliant with the Every Student Succeeds Act (“ESSA”) or the updated Basic Education Circular (“BEC”) entitled “Educating English Learners”, published by the Pennsylvania Department of Education (“PDE”) on July 1, 2017. In fact,

- the ELL Manual references the No Child Left Behind Act as “the latest reauthorization of the 1965 Elementary and Secondary Education Act (ESEA)”. (EMDHPCS 1673).
26. The Applicant anticipates an English Learner (“EL”) population of between 13-20% based upon the differing representations in different places in the narrative (13% in enrollment chart on EMDHPCS 50-51; 20% in paragraph following enrollment chart on EMDHPCS 51). On year 1, based upon these representations, a population of 13-20% ELs equates to 98-150 students.
27. The Applicant stated that a “Staffing List Detail” was attached to the Application, but no such document was submitted. (EMDHPCS 44). The budget includes line items that reflect multiple positions, making it unclear which positions and how many positions are included in some of the lines. (EMDHPCS 467).
28. The Applicant did not provide a Professional Development (“PD”) Plan for Hostos Prep. The PD Plan submitted by the Applicant is a plan for Hostos, an operating charter school, for the 2017-2018 school year. (EMDHPCS 231-238). Given that Hostos is an operating charter school with existing staff, the PD that would need to be provided at Hostos and the PD that would need to be provided to brand-new staff at Hostos Prep would differ. Further, because the plan provided is for the 2017-2018 school year, the Applicant did not identify what PD would be offered for Hostos Prep staff during the 2018-2019 school year, both with respect to the summer induction program and the targeted PD during the school year.
29. The CSO presented an Evaluation Report of the Application at the January 29, 2018 hearing. The following observations by the CSO regarding the curriculum, educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

The curriculum submitted by the applicant for Kindergarten through Grade 8 did not fully align to the PA Core for all subjects to be taught at the Charter School. While the Curriculum & Educational Plan includes a thorough narrative description for ELA, Math and Science, all other subject areas were found to be deficient. Although curricular materials were provided for all subjects to be taught in Year 1 including Spanish Language Arts (SLA), the materials provided were not complete. For example, the applicant did not provide clear evidence of standards alignment to the PA Core and Pennsylvania Academic Standards for ELA, Visual Arts, music or SLA. Unit plans were only provided for science and math. Full lesson plans, evidence of differentiated instruction, goals and objectives, and assessments were not provided for any subject with the exception of math which did identify assessments.

* * *

[T]he Response to Instruction and Intervention (RtII) plan proposed by the applicant raised several concerns for evaluators. The plan provided by the applicant includes universal screening, but only for students in Kindergarten through Grade 4, leaving evaluators uncertain about how students in upper grades would be screened and referred for evaluation timely (page 15). The applicant also references Year 1 screening to be performed by a different charter school, Pantoja Prep, which currently does not exist as a charter school (page 16). It was not clear to evaluators if this was a mistake, or if this reflected a plan for shared pre-opening services for ASPIRA schools; the latter being a concern as the instructional staff at EMDHPCS would not be involved with the screening of its incoming Year 1 students which represent 88% of scale enrollment. The RtII plan does delineate that students will be in differentiated groups, including a remedial group. Students who make limited progress in these groups are referred to the Support Services Coordinator, who at that time would hold a team meeting to review data and to determine whether to make a referral for a comprehensive school evaluation. Evaluators indicated that this model is part of the RtII process, but that there are missing interventions, including universal interventions implemented by the classroom teacher during regular classroom instruction, one-on-one tutoring and other forms of individualized intervention given in other settings. The escalation from small group intervention to a comprehensive school evaluation does not seem to fit a RtII model of attempting, tracking and assessing interventions in order to reduce the number of referrals for special education evaluation.

(EMDHPCS 1733-1734).

30. Attachment 1 contains the Applicant's curricular documents. For English Language Arts ("ELA"), the Applicant provided "Year at a Glance" documents for K-8. However, in

grades 3-5, the following PA Core standards are not evidence in the curriculum maps: Informational Text and Reading Literature related to Integration of Knowledge and Ideas, Diverse Media; and Reading Literature related to Text Structure. (See Attachment 1, "Year at a Glance" submissions for 3rd Grade, 4th Grade and 5th Grade).

31. For Math, the PA Core standards (designated with a "CC" prefix) are evident in K-2nd grade pacing documents but are not evident in the pacing guides for Grades 3-8. The only alignment references are to the Pennsylvania assessment anchors, not the PA Core standards. (See Attachment 1, Pacing Guides for 3rd grade through 8th grade math).

Community Support

32. The Application includes the following community support documents:

- a. Ten (10) non-duplicative letters of support from elected officials, community groups and other individuals. (EMDHPCS 474-478, 1021-1023, 1609-1613).
- b. A spreadsheet identifying the names of 296 non-duplicative students that the Applicant represents are interested in enrollment at Hostos Prep. (EMDHPCS 1700-1703). Of those 296 names, 149 of the students also appear on the spreadsheet in the Pantoja Prep application, leaving 147 students who seek enrollment only in Hostos Prep. (Cf. EMDHPCS 1700-1703 to APPCS 1243-1248). The Applicant did not submit any documents from any parent to support their desire or intent to enroll a child at Hostos Prep.
- c. Three hundred ninety-one (391) non-duplicative letters of support for replication from Philadelphia residents. (EMDHPCS 1024-1608).

33. No one spoke in support of the proposed Charter School at the December 18, 2017, public hearing.

34. No written letters or emails of support for the Charter School were received by the SRC during the publicized public comment period.
35. The SRC received a letter specifically asking for the two applications (Hostos Prep and Pantoja Prep) submitted by ASPIRA to be denied. The SRC received five (5) additional letters arguing that no charter school applications should be granted. (EMDHPCS 1759-1771). Four individuals spoke generally against charter school expansion at the December 18, 2017 hearing. (12/18/17 N.T. 139-157).

Facility

36. The proposed location of the Charter School appears to be 6301 N. 2nd Street, 3rd Floor, Philadelphia, Pennsylvania 19120, which is the former Cardinal Dougherty building currently occupied by Hostos (2nd floor) and ASPIRA's Head Start program, Pequeños Pasos. (EMDHPCS 65). At the second hearing, the Applicant disclosed that ASPIRA Bilingual Cyber Charter School and Olney CHS are currently occupying the 3rd floor of the facility during the 2017-2018 school year. The Applicant, however, stated that those two entities would vacate the facility prior to the operations of Hostos Prep. (1/29/18 HP N.T. 54-58, 64
37. The Charter School would lease the facility from an ACE/Dougherty, which is a subsidiary of ASPIRA. The Applicant indicated the lease would be between Hostos Prep and ACE/Dougherty. (1/29/18 HP N.T. 53-54).
38. The lease ("Lease") attached to the Application, however, is a Lease between ASPIRA and Hostos Prep. The Lease contains the following terms: (i) a two-year lease term; (ii) Base Rent of \$35,000 per month or \$420,000 per year; (iii) Tenant's obligation to pay or undertake all maintenance, repairs, replacements, utilities, insurance, operating expenses

and taxes; and (iv) the obligation to pay “Additional Rent” that the Tenant would agree to pay under a separate Agreement. (EMDHPCS 1004-1018). Tenant is required to “keep, repair and maintain the entire exterior and interior of the Premises” at its sole cost and expense and without reimbursement or contribution by ASPIRA. (EMDHPCS 1006). ASPIRA is providing the property to Hostos Prep under the Lease in “as is” condition with no requirements that ASPIRA maintain the property in any particular condition. (1/29/18 PP N.T. 97).

39. In year 1, Hostos Prep would lease 95,000 square feet from ASPIRA. (1/29/18 HP N.T. 62).

Financial Planning

40. ASPIRA and Hostos Prep would enter into a Master Service Level Agreement (“MSLA”) for management services. (EMDHPCS 449-465). Under the MSLA, the management fee payable to ASPIRA is stated as follows:

In consideration of the Services, Hostos Prep will pay ASPIRA a Management Fee of 4% of local school funds plus reimbursement for any Direct Service Costs, which shall be based (in each Year) on the pricing which ASPIRA charges for its Services. Hostos Prep agrees that the Direct Service Costs with respect to each Service shall be subject to change by ASPIRA, not more than once per calendar year, at ASPIRA’s reasonable discretion (each a “Service Cost Change”). Each Service Cost Change shall be communicated to Hostos Prep in writing. Notwithstanding the foregoing or anything to the contrary herein, in no event shall any Service cost change with respect to any Service represent an increase of more than \$175,000 as compared to the Direct Service Costs charged for such Service immediately prior to such Service Cost Change

(EMDHPCS 450).

41. The MSLA does not identify the actual costs associated with any of the “Direct Service Costs” described in Exhibit A of the MSLA. (EMDHPCS 464-465). The CSO raised a concern regarding this fee structure, which the SRC finds to be credible:

These terms suggested to evaluators that for each of the eight identified Direct Services, ASPIRA could increase the annual charge from some unidentified base rate of up to \$175,000 for each service with no mutual agreement from the Charter School preventing EMDHPCS from being able to effectively manage its annual expenses and budget. Additionally, as the Direct Services include key student services including transportation and food services, evaluators were concerned about the disruption of services to students should costs become unreasonable. In consideration of this structure which assigns a management fee for only academic and operational management services plus costs for direct services for administrative and contracting services, financial management services, human resources and payroll, and information technology and support services, evaluators find the “management and services fees” for ASPIRA, as CMO, to be significantly higher than Philadelphia charter sector averages.

(EMDHPCS 1742-1743).

42. At the January 29, 2018 hearing, the Applicant disclosed that the total Direct Service Costs included in the year 1 budget are \$1,845,468. (1/29/18 HP N.T. 65).
43. The year 1 budget also includes the “CMO management fee” of \$389,196, which amounts to 4% of local school funds received in year 1. (EMDHPCS 468).
44. The budget includes costs for tuition reimbursement, even though tuition reimbursement of up to \$2500 per employee per fiscal year is one of the employee benefits available after 90 days of employment. (EMDHPCS 244-245, 467-468).
45. Under the Lease terms, rent of \$35,000 per month would equate to \$420,000 in year 1 and year 2. However, the year 1 rent included in the budget is \$840,000, which is \$420,000 more than what the Lease requires. (EMDHPCS 468). At the second hearing, Thomas Darden (“Darden”), ASPIRA’s Chief Operating Officer, stated that the budget was correct, which means the Lease terms are not accurately stated in the Lease. (1/29/18 HP N.T. 6, 52-53).

46. The Applicant did not include a budget explanation, either in the Application narrative or in the budget attachments, to provide information about the expenditures included in the various line items in the budget.
47. The budget does not clearly identify all of the positions that are included in various line items; specifically line item 29 (2.7 positions under the heading "Leadership"), line item 34 (4.0 positions under the heading "ELL, Technology Teacher"), line item 35 (6.0 positions under the heading "Art, PE teacher"), line item 38 (10.0 positions under the heading "Behavior Specialist, Teacher Assistant, Classroom Aids"), line item 43 (7.0 positions under the heading "Safety & food service") and line item 43 (the second line 43) (4.0 positions under the heading "Custodial & Maintenance"). (EMDHPCS 467).
48. Various other line items in the budget were mislabeled and include positions that no one would be able to ascertain or understand based solely on the budget description. Line item 36 for "SpEd Teacher" contains 10 special education teachers and a Special Education Coordinator. Line item 34, labeled "ELL, Technology Teacher" does not actually reflect any technology teachers; rather, 3.0 ESL teachers and 1 ELL Coordinator are included in that line item. Line item 35, labeled "Art, PE Teacher" actually includes an art teacher, music teacher, gym teacher, dance teacher and two technology teachers. (1/29/18 HP N.T. 36-40).
49. According to the Applicant's statements at the hearing, several of the positions in the "Personnel Services 100/200" series in the budget are not actually reflective of employees of Hostos Prep; rather, the positions are reflective of ASPIRA positions that will be charged back to Hostos Prep as Direct Service Costs. (1/29/18 PP N.T. 67-85, 1/29/18 N.T. HP 38-

- 44). It is not known why ASPIRA would include those positions in the 100 or 200 series in the budget when those positions are for contracted services, not direct employee costs.
50. The Application states that the Charter School will have a dean and a Director of School Operations. (EMDHPCS 27, 47-48). In response to a question about how school operations will be managed internally, the Applicant stated: "The Hostos Preparatory Charter School will hire a Director of School Operations responsible for overseeing building operations including but not limited to: Finance/Budgeting, Facilities/Custodial Services, Security and Climate Matters, Food Service, Attendance/Truancy and Community Partnerships." (EMDHPCS 47). The Director of School Operations position is the only position identified as being responsible for those functions as an employee of the Charter School. The Director of School Operations position is not identified in the Organizational Chart or the budget, however. (EMDHPCS 179, 260, 467). The dean position is not reflected in the budget. (AMDHPCS 467).
51. For Hostos Prep, a Director of School Operations would exist in year 1, but the functions of this position would be undertaken by an ASPIRA employee who would be responsible for the duties of that position for not only Hostos Prep, but also Hostos and the other ASPIRA-related entities in the building. (1/29/18 HP N.T. 41).
52. The revenues and expenditures for food service included in the Hostos Prep budget are incorrect as those numbers were improperly replicated from the Hostos budget, which includes meals for the Head Start program, according to Darden. (1/29/18 HP N.T. 69-70, 76-78).
53. The Hostos Prep budgeted expenditures are not reflective of an enrollment of 750 students in year 1, particularly when compared to the budgeted expenditures for 425 students found

in the Pantoja Prep budget for year 1. (Cf. EMDHPCS 467-468 to APPCS 424). For example:

- a. To serve the anticipated enrollment of 195 special education students (26% of the overall enrollment per EMDHPCS 471), Hostos Prep has budgeted expenditures of \$102,627.83 for "Professional services serving IEPs". (EMDHPCS 467). That expenditure amounts to approximately \$527 per student. In comparison, Pantoja Prep budgeted \$127,209 for "Professional services serving IEPs" when Pantoja Prep's anticipated special education population would be 106 students in year 1, which equates to \$1,200 per student. (APPCS 49, 424, 428). When asked about this discrepancy at the hearing, Darden stated that the Hostos Prep budget also includes special education expenditures in line 53 under "Other professional services", which should also be factored into the calculation. (1/29/18 HP N.T. 52). However, a similar line item for "Other professional services" is included in the Pantoja Prep budget. Adding the two line items (51 and 53) together in each budget, the total sum in the Hostos Prep budget is \$160,313.25 and the total sum in the Pantoja Prep budget is \$205,532. (APPCS 424; EMDHPCS 467). Inexplicably, the expenditures anticipated for Pantoja Prep with a projected special education population of 106 students is \$45,218.75 greater than the expenditures anticipated for Hostos Prep with a projected special education population of 195 students.
- b. Similarly, other expenditures that would be driven by enrollment and staffing size in the Hostos Prep budget are either lower than the expenditures in the Pantoja Prep budget or similar to the Pantoja Prep expenditures, even though Pantoja Prep is proposed to open in year 1 with 425 students compared to Hostos Prep, which is

proposed to open with 750 students in year 1. Those expenditures are student activities transportation (\$42,987.37 in Hostos Prep compared to \$52,950 in Pantoja Prep), student activities accommodations (\$21,493.68 in Hostos Prep compared to \$26,475 in Pantoja Prep), student activities purchased services (\$42,987.37 in Hostos Prep compared to \$52,950 in Pantoja Prep), and general liability insurance (\$95,000 in Hostos Prep compared to \$115,000 in Pantoja Prep).

54. The projected ending fund balance for year 1 is \$40,170. (EMDHPCS 468).

Governance

55. The Bylaws submitted for Hostos Prep reference Hostos. (EMDHPCS 430).

56. Two Conflict of Interest Policies were attached to the Application – one for Hostos Prep, and one for Olney CHS. (EMDHPCS 445-446, 447-448).

57. The Hiring Policy addresses the personnel requirements that must be met prior to hiring staff. Although the process requires the submission of a criminal background check, the policy does not mention child abuse clearances or Act 168 requirements. (EMDHPCS 148).

58. The MSLA contains multiple references to an unknown entity called, “Balances”. (See e.g., EMDHPCS 451-453).

59. In the Application narrative, the Applicant stated as follows: “The MSLA automatically renews from year to year for additional one-year terms unless either Party notifies the other Party of its intention not to renew this Agreement at least thirty (30) days prior to the end of the then current one-year term. The MSLA (section 10.0) also includes termination provisions customary to these types of agreements.” (EMDHPCS 58).

60. Contrary to the narrative representation, the term of the MSLA is not for one-year terms with a 30-day notice period. The “Period of Agreement” provision in the MSLA states:

PERIOD OF AGREEMENT. The term of this Agreement shall commence on the Effective Date and shall be for a period that includes the full term of the Hostos Prep charter including any extensions, and shall automatically renew thereafter for additional charter terms unless (i) either Party notifies the other Party of its intention not to renew this Agreement for cause at least ninety (90) days prior to the end of the then current fiscal year, or (ii) this Agreement is sooner terminated as provided hereunder.

61. (EMDHPCS 450). The only other termination provisions found in the MSLA are found in Paragraph 10, which permit Hostos Prep to “terminate this Agreement for cause at any time by giving at least ninety (90) calendar days’ prior written notice of termination to ASPIRA.” (EMDHPCS 456). Based upon this language, the MSLA is not for one-year terms but rather for the full period of the charter; and the MSLA cannot be terminated by Hostos Prep at any time, even at the time of renewal, except for cause.
62. The MSLA does not contain any performance conditions or standards for ASPIRA’s performance. ASPIRA does not provide any warranties or representations related to the quality of services that it provides. (EMDHPCS 457-458).
63. The MSLA contains a “Notices” provision identifying the persons to whom notices should be sent under the MSLA on behalf of ASPIRA and Hostos Prep. According to the “Notices” provision, the CEO of ASPIRA and counsel for ASPIRA, Duane Morris LLP, are to receive the notices for ASPIRA. For Hostos Prep, notices are to go to O’Donnell Associates for the Board of Trustees and the School Principal, and to ASPIRA’s own employee, the Superintendent. (EMDHPCS 461).
64. One of the types of services to be provided by ASPIRA to Hostos Prep is Facilities Services, which include security system maintenance and monitoring, security personnel services “and any other items related to Hostos Prep facilities.” (EMDHPCS 464). Hostos Prep is responsible for all repairs and maintenance at the proposed facility, which is owned

by a subsidiary of ASPIRA. Under the MSLA, ASPIRA would be the entity providing the Facility Services; such Facility Services would then be invoiced for payment to Hostos Prep as a Direct Service Cost. ASPIRA would then be compensated by Hostos Prep for repairs, replacements and improvements to an ASPIRA subsidiary's own asset, the facility used by Hostos Prep.

65. The same "three executive committee members" who sit on the Board of Trustees that currently governs the other operating ASPIRA-managed schools, including Olney CHS and Stetson, would sit on the Hostos Prep Board. (1/29/18 PP N.T. 112-113; EMDHPCS 42, 57).

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 SRC examines the 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, that it is meeting the standards articulated by CAB and the appellate courts in Pennsylvania.

Governance Structure

Pursuant to the Pennsylvania Supreme Court's direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school may not be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school's ability to exercise its rights, including cancellation of the contract between the two entities. *Id.*

The current structure and relationship between ASPIRA and the Charter School raises concerns about the independence of the Charter School. ASPIRA would serve as both the management company and the landlord of the Charter School, which on its face raises issues about the independence of the Charter School from ASPIRA. Both the MSLA and the Lease contain terms that are vastly different from the terms reflected in the Application narrative and the budget.

The MSLA is very one-sided in favor of ASPIRA. The MSLA does not include the pro-Charter School termination provisions that are discussed in the Application narrative; to the contrary, the termination provisions in the MSLA favor ASPIRA. No performance conditions or standards exist in the MSLA; in fact, language has been included that shows ASPIRA making no warranties or representations regarding the fitness or quality of the services it is to provide to the Charter School. Unless ASPIRA breaches the contract resulting in causation for termination, the Charter School would not be able to terminate the MSLA *at any time*, even at the end of the term. The termination provisions result in the Charter School being indentured to ASPIRA into perpetuity. The notice provisions in the MSLA do not provide for notices to be given by ASPIRA

to a Charter School employee or a Charter School board member; instead, ASPIRA has to give notice to its own employee, the ASPIRA Superintendent.

The fee arrangement outlined in the MSLA also precludes the Charter School's ability to approve or authorize fee increases, giving ASPIRA the unilateral right to make substantial and significant fee adjustments of up to \$175,000 for the Direct Service Costs at any time. The MSLA does not identify what the management fee of 4% covers, given that the Direct Service Costs are to be reimbursed directly. When asked at the hearing what the management fee covers, the Applicant said that the fee covers "non-payroll related operational and administrative expenses of the CMO which are used to ensure the CMO can continue to provide services to the schools and to support and reinvest in its services to the school." (1/29/18 PP N.T. 74). When pressed for more details about what those expenses or services were beyond the Direct Service Costs, the Applicant could not or would not elaborate. Because the CSL requires Charter School funds to be used for the charter school's purposes only, the Charter School is not permitted to use its funding to subsidize the operations of a related entity. *See* 24 P.S. § 17-1714-A.

The Lease set forth in the Application is a Lease between ASPIRA and Hostos Prep. Although the Application identifies the owner of the facility as "ACE/Dougherty", the Applicant clarified at the second hearing that ASPIRA actually owns the building through its subsidiary, ACE/Dougherty, which is a pass-through entity for ASPIRA. (1/29/18 HP N.T. 53-54, 68). However, the Applicant then indicated that the Lease would be with ACE/Dougherty, not ASPIRA (*Id.* at 54), which is inconsistent with the language in the Lease itself. Two individuals sit on the ACE/Dougherty board, one individual who is an employee of ASPIRA and another individual who serves on ASPIRA's Board. (*Id.* at 67-68).

The proposed Lease also raises concerns about whether the Charter School's funds will be used to benefit the Charter School versus ASPIRA. Possession of the leased property will be taken "as is", meaning the Charter School would be taking on not only a triple net lease but also each and every responsibility to make all capital improvements and repairs to the property. Yet, the Charter School will not own the property or receive the benefit of those improvements – ASPIRA or its subsidiary, ACE/Dougherty, will receive that benefit. Not only will ASPIRA or ACE/Dougherty receive the benefit of the improvements as the property owner, but the facility work would fall under the Direct Service Costs outlined in the MSLA requiring ASPIRA to perform the work at the sole expense of the Charter School. Again, these issues raise concerns that the Charter School would be using Charter School funds for the benefit of ASPIRA.

The Lease submitted with the Application for Hostos Prep articulates a monthly rent of \$35,000, or at total annual rent of \$420,000 per year. At the hearing, however, the ASPIRA representative unilaterally changed the rent requirement to \$70,000 per month, or \$840,000 per year, without any indication that the individuals who would supposedly control the Charter School were in agreement with that change.

These details about the MSLA and Lease arrangements establish that the Applicant has not taken sufficient steps to ensure the independence of these various entities. As noted by the Commonwealth Court in a decision issued in May, 2017, "[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities." *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, 162 A.3d 591, 598 (Pa.Cmwlth. 2017). The circumstances identified here do not provide assurances that the relationship between the Charter School and ASPIRA would be one of arms-length transactions.

The Board of Trustees that would govern the Charter School is composed of three executive committee members who also serve on each of the boards that operate the other ASPIRA-managed schools, including Stetson and Olney CHS. In December 2017, the SRC instituted nonrenewal proceedings against two ASPIRA-managed schools, Olney CHS and Stetson. Those proceedings will be entering the hearing process in the near future. At this time, the outcome of those hearings is not known, as the SRC (or the Board of Education to be appointed to govern the School District as of July 1, 2018) is responsible for adjudicating those cases based upon the evidence admitted through the nonrenewal hearing processes. However, the adoption of SRC-8 and SRC-9 has placed the SRC on notice of potential concerns with ASPIRA's management of two of its five existing charter schools. It would not be prudent at this time to authorize two new ASPIRA-managed schools when those allegations against Stetson and Olney CHS remain outstanding. Moreover, the other two brick and mortar charter schools operated by ASPIRA – Hostos and Pantoja – are presently in the renewal cohort for the 2017-2018 school year. The comprehensive renewal review of the operations of those two charter schools has not yet been completed.

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. The submission of curriculum 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.

Various curriculum concerns raised by the Application are outlined in the factual findings above. Several gaps exist in the ELA alignment with the PA Core standards. The Applicant did not provide documents showing the alignment with the PA Core standards in Grade 3-8 in Math. The SRC also finds that the Applicant did not provide sufficient information related to the system of screening and interventions that it would put in place to meet the requirements of 22 Pa. Code § 711.23.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents that meet the standards set by the CSL and CAB. The curricular documents submitted do not evidence that the Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4.

English Learners

Charter schools are required to “provide a program for each student whose dominate 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. Prior to the submission of the Application, on July 1, 2017, the Pennsylvania Department of Education reviewed and re-issued its Basic Education

Circular (“BEC”) on *Educating English Learners (ELs)* pursuant to 22 Pa. Code § 4.26. The BEC on *Educating English Learners* states in pertinent part:

The purpose of this circular is to provide local education agencies (LEAs) with the requirements and interpretations of the legal mandates governing the education of students who are English learners (ELs). The information included should be used in designing, staffing, and evaluating effective programs for ELS. These mandates and interpretations are based on the Pennsylvania Regulations, Chapters 4 and 11; and on federal law, including Title VI of the Civil Rights Act, the Equal Educational Opportunity Act (EEOA), the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), and regulations and case law under those statutes.

BEC at 1.

ESSA was signed into law on December 10, 2015, and replaced NCLB. The ESSA requirements pertaining to ELs took effect on July 1, 2017, also prior to the submission of the Application. Despite these changes in the law, the Applicant’s policy does not reflect the changes in the law. The Application does not contain any references to ESSA or the revised BEC. Further, the interplay between the Applicant’s ELL Manual and the bilingual programming to be offered at the Charter School was not clear.

Based upon the Applicant’s own representations, staffing to serve EL students is not sufficient. With a projected EL population of 98-150 students in year 1, Hostos Prep would need more than three English as a Second Language (“ESL”) certified teachers to provide instructional services to the EL population. Although the Application itself did not disclose the proposed ESL teachers in year 1, the Applicant testified at the hearing that three ESL teachers were included in line item 34 on EMDHPCS 486. Based upon the Applicant’s statement that a typical ESL teacher has a caseload of 25-30 ELs (EMDHPCS 21), three teachers would not provide adequate services to the expected EL population.

Given the significant percentage of ELs in the targeted student population, these concerns are additional deficiencies in the Applicant's planning.

Financial Planning

An item that must be addressed in an 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 Docket 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 Docket No. 2009-04, at 12; *Voyager Charter School*, CAB Docket No. 2005-09. The budget must be complete, and must clearly identify a plan to address start-up expenses and the source of such funds. *New Castle Arts Academy Charter School v. New Castle Area School District*, CAB Docket No. 2014-14. 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 Docket No. 2003-3.

The budget supplied by the Applicant did not properly disclose expenditures or reflect the representations in the narrative. The Applicant also failed to submit the staffing plan alluded to in the narrative. The budget submitted included contracted ASPIRA personnel in the instructional and support staff (100 and 200) budget categories; those facts could not be determined by simply reviewing the budget. Significant questioning occurred at the hearing about these positions, and the disclosures that were made at the hearing should have been reflected in the Application documents, but were not.

Not only did the budget inaccurately reflect the staffing proposed in the Application, it also contained incorrect assumptions about other expenditures, including food services, purchased professional services, and other purchased services. The budgeted rent inaccurately reflects the rent terms in the Lease, including an expenditure that is double the amount contained in the Lease. Various expenditures in the 300 and 500 series, all of which are driven by student enrollment, are underbudgeted particularly when compared to the Pantoja Prep budget. Food services revenue exceeds the food services expenditure by over \$250,000, which is absolutely unrealistic.

The Applicant has made fundamental budgeting errors that are indicative of problems in the Applicant's financial planning and the Applicant's ability to provide a comprehensive learning experience. Such fundamental budgeting errors do not warrant the provision of a charter to the Applicant.

B. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate "sustainable support for the charter school plan by teachers, parents, other community members and students" within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). "Sustainable support" has been defined by CAB as "support sufficient to sustain and maintain a proposed charter school as an ongoing entity." *Bear Creek Community Charter School*, CAB No. 2003-3; *Ronald Brown Charter School*, CAB No. 1999-1. Sustainable support is "an inherent variable based upon the size of the proposed school, the size of the community and other factors." *Environmental Charter School*, CAB No. 1999-4. Sustainable support is measured in the aggregate and not by individual categories. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa.Cmwlth. 2003). The appropriate measurement for sustainable

support is against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB No. 2004-2, at 6-7.

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB No. 2000-14. The support documents, including petitions, must clearly identify that the signers or supporters are school district residents to be considered as evidence of sustainable support. *Dr. Lorraine K. Monroe Academy Charter School*, CAB No. 2000-16.

The Charter School proposes to open its doors less than six months from now with 750 students. Between the two applications filed by ASPIRA by November 15, 2017, ASPIRA was seeking 1175 new seats for Hostos Prep and Pantoja Prep. Overlap exists between the individuals who were interested in enrollment at both schools. Of the 296 non-duplicative names on the pre-enrollment spreadsheet provided for Hostos Prep, 149 of those individuals also sought enrollment at Pantoja Prep. The Applicant did not submit any documents with the Application to support the information in the spreadsheet. In addition, duplicate letters of support appeared in both applications.

Under the circumstances presented here, reviewing all of the submitted evidence of community support in the aggregate, the Applicant has not met its burden of showing sustainable support for the proposed school and for the overall charter school plan set forth in the Application, as required by Section 1717-A(e)(2)(i) of the CSL.

C. 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 SRC 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 concerns are discussed in Section A 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum and programming to EL students in Section A above. The SRC reiterates herein that the deficiencies fail to establish that the Charter School would provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4.

3. Section 1719-A(7) – Procedures Which Will Be Used Regarding The Suspension Or Expulsion Of Pupils. Said Procedures Shall Comply With Section 1318.

The Code of Student Conduct contains a bullying policy that violates the requirements of 24 P.S. § 13-1318 and the State Board of Education regulations found in 22 Pa. Code §§ 12.6 and 12.8.³ Specifically, the Code does not comport with the due process protections found in Chapter 12. Only the Board of Trustees may expel students, not a hearing examiner or other designee. Students subject to expulsion are permitted to be represented by counsel at the hearing; they are entitled to have the full Board vote on the expulsion; and they are entitled to appeal the full Board's decision under the Local Agency Law. None of those rights are recognized in the Charter School's bullying policy. The bullying policy is not in compliance with applicable law.

³ All charter schools must comply with Chapter 12. 24 P.S. § 17-1732-A(b).

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

As explained more fully above, material concerns exist regarding the financial planning of the Charter School.

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 for the Charter School. The PD plan submitted was for another entity that was not a start-up charter school. Notwithstanding the fact that the PD plan was for a totally separate and distinct entity, the PD plan did not identify who would provide the PD; the resources that would be used; or the knowledge and skills that would be addressed in order to implement the programming described in the Application. 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 Charter School. 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 PD 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 SRC has reviewed the totality of materials submitted by the Applicant, the evaluation documents provided by the CSO and the other documents noted in the record above. Because of the deficiencies and concerns noted in the

Sections above, the SRC must conclude that the Applicant is not prepared to serve as a model for other public schools.

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RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for Eugenio Maria de Hostos Preparatory Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 29, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with K-Grade 8 starting in the 2018-2019 school year with a maximum enrollment of 850 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

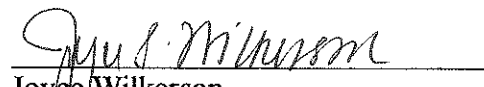
FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

ORDER

For the reasons set forth above, the 2017 Application to create the Eugenio Maria de Hostos Preparatory 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).



Joyce Wilkerson
Chair

APPENDIX A

RESOLUTION

Re: Olney Charter High School; Notice of Nonrenewal of Charter

WHEREAS, in January, 2010, the School Reform Commission ("SRC") adopted the Renaissance Schools Initiative Policy, which authorized the SRC to grant Renaissance charters as part of the Renaissance Schools Initiative of The School District of Philadelphia ("School District"); and

WHEREAS, Olney High School – East and Olney High School - West (collectively, "Olney High School") had been identified as School District schools which needed fundamental change through the Renaissance Schools Initiative to facilitate a transformation of the learning environment; and

WHEREAS, the purpose of the Renaissance Schools Initiative was to dramatically improve the learning environment in underperforming School District schools to create highly effective schools that provide exceptional opportunities for student academic achievement and preparedness for success in college and the workforce; and

WHEREAS, for charter schools participating in the Renaissance Schools Initiative, in order to adhere to the mission of the Renaissance Schools Initiative and to maintain high levels of accountability, academic requirements could exceed performance targets for non-Renaissance charter schools; and

WHEREAS, pursuant to the Charter School Law, 24 P.S. § 17-1701-A *et seq.*, the SRC granted a charter to OLNEY CHARTER HIGH SCHOOL ("Olney" or "Charter School") in 2011 to operate Olney High School as a charter school for a five-year term commencing on July 1, 2011; and

WHEREAS, Olney is managed by ASPIRA of Pennsylvania, Inc. ("ASPIRA, Inc."), a charter management organization ("CMO");

WHEREAS, Olney submitted a renewal application to the Charter Schools Office ("CSO") of the School District in October 2015, and Olney seeks renewal of its Charter; and

WHEREAS, members of the CSO have reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of Olney during the existence of the Charter School and have recommended to the SRC that there are grounds for the SRC not to renew the Charter under Section 1729-A of the Charter School Law; and

WHEREAS, the following are grounds for nonrenewal of Olney's Charter and termination of the charter agreement, pursuant to Section 1729-A(a) of the Charter School Law:

1. During the 2012-2013 school year, the first year of administration of Keystone exams for high school students in Pennsylvania, 30.0% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2013-2014 school year, 25.0 % of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2014-2015 school year, 21.1% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2015-2016 school year, 24.0% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. During the 2016-2017 school year, 16.50% of Olney 11th grade students who took the Algebra I Keystone exam scored proficient or advanced. Thus, from the 2012-2013 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Algebra I Keystone exam based on the banked accountability score method decreased by 13.50 percentage points.

2. During the 2012-2013 school year, the first year of administration of Keystone exams for high school students in Pennsylvania, 38.0% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2013-2014 school year, 40.0% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2014-2015 school year, 25.3% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2015-2016 school year, 33.7% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. During the 2016-2017 school year 20.5% of Olney 11th grade students who took the Literature Keystone exam scored proficient or advanced. Thus, from the 2012-2013 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Literature Keystone exam based on the banked accountability score method decreased by 17.5 percentage points.

3. During the 2012-2013 school year, 5.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2013-2014 school year, 14.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2014-2015 school year, 11.0% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2015-2016 school year, 15.6% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. During the 2016-2017 school year, 7.4% of Olney 11th grade students who took the Biology Keystone exam scored proficient or advanced. Thus, from the 2013-2014 school year to the 2016-2017 school year, the percent of 11th grade students at Olney scoring proficient or advanced on the Biology Keystone exam based on the banked accountability score method decreased by 6.6 percentage points.

4. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Algebra I Keystone were 42.2% in 2012-2013, 42.6% in 2013-2014, 43.3% in 2014-2015, 48.2% in 2015-2016 and 38.7% in 2016-2017.

5. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Literature Keystone were 56.2% in 2012-2013, 56.1% in 2013-2014, 54.4% in 2014-2015, 60.9% in 2015-2016 and 48.8% in 2016-2017.

6. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students in School District schools in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The banked 11th grade accountability proficiency rates for the School District for the Biology Keystone were 21.5% in 2012-2013, 28.3% in 2013-2014, 33.3% in 2014-2015, 40.5% in 2015-2016 and 36.5% in 2016-2017.

7. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Algebra I Keystone were 39.4% in 2012-2013, 40.3% in 2013-2014, 41.7% in 2014-2015, 45.6% in 2015-2016 and 39.2% in 2016-2017.

8. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Literature Keystone were 55.0% in 2012-2013, 55.3% in 2013-2014, 56.4% in 2014-2015, 60.1% in 2015-2016 and 52.8% in 2016-2017.

9. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending brick and mortar charter schools in Philadelphia in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. The 11th grade accountability proficiency rates for Charter School students in Philadelphia for the Biology Keystone were 17.7% in 2012-2013, 25.4% in 2013-2014, 29.8% in 2014-2015, 36.2% in 2015-2016 and 32.7% in 2016-2017.

10. The Algebra I Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending schools in Olney's 2015-2016 School Progress Report ("SPR") peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Algebra I Keystone were 36.9% in 2014-2015, 41.7% in 2015-2016 and 33.6% in 2016-2017.

11. The Literature Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for students attending schools in Olney's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Literature Keystone were 52.7% in 2014-2015, 57.8% in 2015-2016 and 47.0% in 2016-2017.

12. The Biology Keystone exam banked 11th grade accountability proficiency rates for Olney did not exceed the banked 11th grade accountability proficiency rate for student's attending schools in Olney's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year. 2015-2016 SPR peer group schools student banked 11th grade accountability proficiency rates for the Biology Keystone were 21.2% in 2014-2015, 29.0% in 2015-2016 and 26.4% in 2016-2017.

13. Olney's School Performance Profile ("SPP") score was 53.5 in the 2012-2013 school year, the first year an SPP score was generated by the Pennsylvania Department of Education ("PDE"), 49.6 in the 2013-2014 school year, 39.0 in the 2014-2015 school year, 41.4 in the 2015-2016 school year, and 37.9 in the 2016-2017 school year. All of Olney's SPP scores were in the lowest SPP category of 60 or below and all were significantly below a SPP score of 70, the minimum SPP score PDE has identified as meeting academic performance expectations.

14. Olney's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all School District-operated schools including CTE programs. The School District school building level average SPP score was 57.5 in 2012-2013, 57.3 in 2013-2014, 52.7 in 2014-2015, 52.7 in 2015-2016, and 52.8 in 2016-2017.

15. Olney's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all Philadelphia brick and mortar charter schools. The Philadelphia brick and mortar Charter School building level average SPP score was 66.0 in 2012-2013, 63.6 in 2013-2014, 57.6 in 2014-2015, 56.8 in 2015-2016, and 58.0 in 2016-2017.

16. Olney did not meet the Pennsylvania academic growth standard, the Average Growth Index ("AGI"), on the Algebra I Keystone exam in the 2014-2015 and 2016-2017 school years.

17. Olney did not meet the Pennsylvania academic growth standard, the AGI, on the Literature Keystone exam from the 2012-2013 school year through the 2016-2017 school year.

18. Olney did not meet the Pennsylvania academic growth standard, the AGI, on the Biology Keystone exam from the 2014-2015 school year through 2016-2017 school year.

19. When comparing Olney student academic achievement levels to the State's Annual Measureable Objectives ("AMOs") in Algebra I and Literature for the 2013-2014 school year, the last year in which PDE made AMO information available, Olney did not meet the AMO targets on either the Algebra I Keystone exam or the Literature Keystone exam for any of the

nine student subgroups identified (Historically Underperforming, Individualized Education Plan ("IEP"), English Language Learner, Economically Disadvantaged, Male, Female, Asian, Black or African American and Hispanic) except Asian students on the Algebra I Keystone exam and Asian and female students on the Literature Keystone exam.

20. Olney's four-year high school graduation rate dropped 24.3 percentage points during the Charter Term from the 2011-2012 school year to the 2013-2014 school year. Olney's four-year high school graduation rate as reported by PDE was 77.5% in the 2011-2012 school year, 58.2% in the 2012-2013 school year, and 53.2% in the 2013-2014 school year. Olney's graduation rate was lower than the rate for students attending schools in the 2014-2015 SPR peer group in both the 2012-2013 school year and the 2013-2014 school year.

21. Olney's four-year high school graduation rate, calculated from data as reported to the School District by Olney, increased by 4.8 percentage points from the 2014-2015 to the 2016-2017 school year however it was lower than the rate for students attending schools in Olney's 2015-2016 SPR peer group and the School District's graduation rate in the 2014-2015 school year and the 2015-2016 school year. Olney's four-year high school graduation rate, calculated from data as reported to the School District by Olney, was 60.2% in the 2014-2015 school year, 65.4% in the 2015-2016 school year and 65.0% in the 2016-2017 school year. The four-year high school graduation rate for Olney's 2015-2016 SPR peer group was 82.0% in the 2014-2015 school year and 82.7% in the 2015-2016 school year. The four-year high school graduation rate for the School District was 74.3% in the 2014-2015 school year and 75.3% in the 2015-2016 school year.

22. Olney had a federal accountability designation of "Priority" for the 2012-2013 school year, the 2013-2014 school year and the 2014-15 school year meaning that Olney was in the lowest 5% of Title I schools based on combined Algebra I/Literature proficiencies for Keystone Exams.

23. Prior to the 2015-2016 school year, although the Charter School is a Renaissance charter school and is expected to have a mission aligned to the intent of the Renaissance Initiative, Olney changed its mission statement to replace "achievement of academic proficiency and college and career readiness" with "persevere towards excellence".

24. Olney failed to meet commitments made in its original charter application including "dramatic improvements in academic achievement," "all children enter every grade on level" and "the opportunity and achievement gap is closed for all students."

25. Olney failed to meet all program requirements for English Language Learners ("ELL") under Section 4.26 of the State Board of Education regulations in that, during the 2015-2016 school year, Olney did not have sufficient translation and interpretation services to communicate with parents in different languages; Olney did not annually administer the ACCESS assessment as required by PDE guidance; Olney's exit criteria for ELLs did not fully align with PDE guidance; Olney did not provide direct, daily instruction five days per week to ELLs; and Olney did not have an annual professional development plan for English as a Second Language staff as required under the applicable PDE guidance in the 2015-2016 school year.

26. During the charter term and into the 2016-2017 school year, Olney did not have fully compliant and equitable student admission policies in accordance with the Charter School Law and the Public School Code in that:

- a. During the charter term, as identified during the renewal evaluation in the 2015-2016 school year, the Olney student application required an applicant to provide a social security number and information about race/ethnicity, which is not permissible under PDE guidance.
- b. During the charter term, as identified during the renewal evaluation in the 2015-2016 school year, the Olney enrollment packet required documents to be provided, such as transcripts, special education records, and physical and dental examination records, beyond the five documents that may be required under PDE guidance.
- c. As recently as the 2016-2017 school year, the Olney enrollment packet did not require submission of the five documents required before completing enrollment of a student under PDE guidance: a parent registration statement, proof of residency, proof of age, immunizations and home language survey. Olney addressed this noncompliance after receiving a Notice of Deficiency from the CSO in July 2017.

27. Renaissance performance targets in the Olney Charter related to within year student retention were not met by Olney from the 2011-2012 school year through the 2014-2015 school year. Within year retention at Olney was 83% in the 2011-2012 school year when the target was 85.8%; 79% in the 2012-2013 school year when the target was 89.3%; 85% in the 2013-2014 school year when the target was 91.1%; and 85% in the 2014-2015 school year when the target was 92.8%.

28. Renaissance performance targets in the Olney Charter related to rate of violent incidents were not met by Olney from the 2011-2012 school year through the 2014-2015 school year. The rate of violent incidents was 26.9 per 100 students in the 2011-2012 school year when the target was 9.6; 18.4 per 100 students in the 2012-2013 school year when the target was 5.7; 4.2 per 100 students in the 2013-2014 school year when the target was 3.8; and 14.1 per 100 students in the 2014-2015 school year when the target was 1.8.

29. Olney, in its renewal application, reported seven expulsions in the 2012-2013 school year, three expulsions in the 2013-2014 school year and two expulsions in the 2014-2015 school year. However, Board minutes do not indicate that the Board of Trustees for Olney approved all of the expulsions in accordance with the Public School Code and the Charter School's Bylaws.

30. Actions by an Olney student that could lead to placement in the in-school alternative placement for behavior incidents, called the Success Academy, were not identified in the 2015-2016 school year Family and Student Handbook. Further, it was reported during the site visit in November 2015 that consequences for the same behavior may vary, and staff was unclear on the process for placing students at the Success Academy in 2015-2016.

31. Olney failed to meet a commitment stated in its original charter application related to student attendance. Olney's original charter application stated, "all students are excited to attend school every day". The percent of Olney students attending 95% of more instructional days declined from 20% in the 2013-2014 school year to 15% in the 2016-2017 school year, representing a negative trend. Olney's percentile rank in the 2013-2014 school year (32nd), the 2014-2015 school year (25th), the 2015-2016 school year (26th) and the 2016-2017 school year (24th) were lower than the percentile rank for the Olney School pre-Renaissance in the 2010-2011 school year (35th).

32. The Board of Trustees of Olney failed to operate in accordance with applicable law and Olney's Bylaws and policies in that:

- a. The Olney Bylaws state that officers should be elected at the Annual Board Meeting in June. The Board of Trustees did not provide Board minutes stating that officers were elected at any Annual Board Meeting during the Charter Term. Although a President and Secretary were elected in June 2017, these elections do not reflect a complete slate of Board officers.
- b. Board minutes for the charter term through the renewal evaluation in the 2015-2016 school year, did not clearly state the opening and closing of Board meetings specifically for Olney, as opposed to the other three ASPIRA-managed brick and mortar charter schools; Board meetings for all ASPIRA-managed charter schools are held concurrently with specific business or approvals by individual charter school not clearly delineated.
- c. The Bylaws provide for an Executive Committee that "shall have the authority of the Board; except that no such committee shall have the authority to (i) fill vacancies on the Board or any committee thereof; (ii) amend the by-laws; (iii) approve a plan or merger; (iv) dismiss members of the Board." This raises concerns regarding a subset of Board members acting on behalf of the entire Board on the operations and functioning of the Charter School.
- d. As public officials under the Pennsylvania Public Official and Employee Ethics Act, members of the Board of Trustees are required to complete Statements of Financial Interest annually by May 1. Olney did not provide complete Statements of Financial Interest forms in at least 10 instances for all Board members from the 2012-2013 through 2016-2017 school years. Additionally for calendar year 2016, the most recent year of submission required, Statements of Financial Interest for Olney Board members were completed, dated and signed after the due date of May 1, 2017.

33. Olney failed to meet the 100% highly qualified teacher ("HQT") requirement as required by the No Child Left Behind Act as reported by PDE. In the 2011-2012 school year, only 85% of the PDE-specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2012-2013 school year, only 78% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2013-2014 school year, only 91% of the PDE specified core academic classes taught at Olney were taught by highly qualified

teachers. In the 2014-2015 school year, only 95% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers. In the 2015-2016 school year, only 96% of the PDE specified core academic classes taught at Olney were taught by highly qualified teachers.

34. During the 2015-2016 school year, all special education instructors at Olney were not appropriately certified in violation of PDE regulations. During the 2016-2017 school year, only 27 of 34 special education instructors at Olney were appropriately certified, in violation of PDE regulations.

35. Olney's audited financial statements were not issued on or before December 31 as required by the Pennsylvania Public School Code for three of the four reporting years in the Charter Term. The FY2012 audit was issued in April 2013; the FY2013 audit was issued in January 2014; the FY2014 audit was issued in February 2015; and the FY2016 audit was issued on February 2, 2017.

36. Olney failed to make certain required payments to the Public School Employees' Retirement System ("PSERS") during the Charter Term and the amounts of missed payments were subsequently deducted from the School District's basic education subsidy. The School District recovered from Olney the following funds which Olney failed to pay to PSERS: \$34,615 in November 2012 and \$13,302 in June 2015.

37. Olney has failed to meet generally accepted standards of fiscal management and audit requirements related to short-term financial health and long-term financial sustainability in that:

- a. Olney reported inadequate cash balances, significantly below standard, in all but one year during the period FY2012 through FY2017 with less than 30 days of cash on hand in FY2012, FY2013, FY2015, FY2016, and FY2017. In no fiscal year during the period FY2012 through FY2017 did Olney meet or exceed the standard of 60 days cash on hand.
- b. Olney had a positive net position as a percent of revenue during the period FY2012 through FY2016 but only met the standard of having at least 16.67% in two of the six fiscal years during the same period. In FY2017, Olney's net position was less than 0%.
- c. Olney reported a total margin that was significantly below standard at -14.27% in FY2016, and Olney reported a total margin that was less than 0 in three of the six fiscal years, in FY2015, FY2016 and FY2017, during the period FY2012 through FY2017.
- d. Olney reported a current ratio that was significantly below standard for FY2016 and FY2017 in that Olney's current ratio was less than 1.0.
- e. Olney reported a fund balance that was significantly below standard for FY2016 and FY2017 in that Olney's fund balance was less than 0%.

- f. Transactions between Olney and related parties (ASPIRA and other ASPIRA-managed charter schools) were not approved by the Olney Board of Trustees or the boards of trustees of the other ASPIRA-managed charter schools, and appropriate supporting documentation for such transactions were not provided to the School District or the CSO. No written contracts were executed between or among ASPIRA, the Olney Board of Trustees or the boards of trustees for the other ASPIRA-managed charter schools for the majority of funds shifted between ASPIRA-affiliated entities other than the service level agreement between ASPIRA and Olney.
- g. Neither the Olney internal controls policy submitted with the renewal application nor the internal controls policy submitted by Olney in September 2017 specifically state which entity is responsible for which financial management duties, clearly outline roles for Olney staff versus ASPIRA staff, or state which individuals have check signing authority for Olney.
- h. Olney was owed significant funds from ASPIRA and other ASPIRA-managed charter schools during the period FY2012 through FY2017 including \$1.63 million in FY2012, \$1.38 million in FY2013, \$984,678 in FY2014, \$2.58 million in FY2015; \$2.37 million in FY2016; and \$433,656 In FY2017. Of the funds owed from related parties, a significant portion was owed by ASPIRA, Olney's CMO. ASPIRA owed Olney \$1.5 million in FY2012, \$994,705 in FY2013, \$984,678 in FY2014, \$2.52 million in FY2015; \$2.37 million in FY2016; and \$433,656 in FY2017.
- i. Olney owed funds to ASPIRA and other ASPIRA-managed charter schools during the period FY2012 through FY2017 including \$90,469 in FY2012, \$116,110 in FY2013, \$324,450 in FY2014; and \$38,159 in FY2017.
- j. A service level agreement between Olney and ASPIRA was not approved and signed for July 2013; ASPIRA staff reported a continuance of the 2012 agreement. The Olney Board Chair signed the July 2011 agreement in November 2011. The Olney Board Chair did not date the July 2012 agreement, but the ASPIRA Board Chair signed in January 2013. According to ASPIRA staff, for the 2015-2016 school year, the Olney Board of Trustees agreed to a 4% fee increase. However, the Olney Board of Trustees only approved a 2015-2016 Budget for Olney, not a service level agreement, and no approved or signed agreement for the 2015-2016 school year was available as of February 2016 to address the services, and the terms and conditions related to those services, to be provided by ASPIRA to Olney. During the 2016-2017 school year, Olney was invoiced by ASPIRA for administrative services and charter management fees totaling \$7,016,667 or 27% of total revenues for Olney in FY2017. In FY2015, Olney was invoiced \$2,691,922 for administrative services alone. In FY2017, Olney was invoiced \$6,085,085 for administrative services alone.

- k. Form FY2011 to present, Olney's revenue and financial resources have been used for non-Olney purposes, in violation of the Charter School Law and the Pennsylvania Nonprofit Corporation Law. Olney was not financially independent from other ASPIRA-managed charter schools or from ASPIRA-affiliated entities. Olney is obligated under security agreements, guaranties and other financial instruments to secure the debts of other ASPIRA-managed or ASPIRA-affiliated entities. As of June 30, 2017, Olney had entered into security agreements pledging a portion of Olney's assets to secure the debt of certain related parties. The holders of the debt and the outstanding liability balances are as follows:
- o ASPIRA: Olney's revenue has been included in the security interest of a \$800,215 line of credit loan issued to ASPIRA. The loan matured on October 1, 2016 and was extended through October 31, 2017. The balance of the loan as of June 30, 2017 was \$800,215.
 - o ASPIRA Community Enterprises, Inc. ("ACE"): Olney is the guarantor of a \$5,005,005 mortgage loan issued to ACE for the acquisition and construction loan associated with the Antonio Pantoja Charter School. The balance on the loan was \$4,447,227 for year ended June 30, 2016 and \$4,354,757 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance.
 - o ACE: Olney's revenue has been included in the security interest of a \$1,742,573 mortgage loan issued to ACE. The mortgage loan matures in August 2018. The balance on this loan was \$1,239,345 as of June 30, 2016 and \$1,061,735 as of June 30, 2017.
 - o ACE/Dougherty, LLC ("ACE/Dougherty"): Olney's revenue has been included in the security interest of a \$12,750,000 note payable issued to ACE/Dougherty for the acquisition, construction and renovation for a building for Eugenio Maria de Hostos Charter School. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance. The balance on the loan was \$8,496,247 for year ended June 30, 2016 and \$8,154,432 for year ended June 30, 2017.
- l. In October 2011, a lease agreement was signed between Olney and ACE/Dougherty, LLC, the owner of 6301 North 2nd Street, which is the current location of Eugenio Maria De Hostos Charter School, for Olney to operate an Excel Academy for over-aged, under-credited students at 6301 North 2nd Street rather than at the School District-owned Olney school building. The lease outlined minimum rent of 1.2 multiplied by 12% of the landlord's debt service on the bonds. ASPIRA staff stated that this rent was determined using an enrollment-based pro-rata share of the mortgage expenses. This is a concern as enrollment can vary daily, monthly and yearly. According to the subordination and attornment agreement between ACE/Dougherty, Olney and PNC Bank, if ACE/Dougherty defaults under the loan documents, Olney shall continue making lease payments directly to PNC bank. Prior to moving to the ACE/Dougherty facility, the Excel Academy was housed at Olney during the 2014-2015 school year. As such, space is available at the Olney school building, thus, the Excel Academy program located at a different site causes unnecessary occupancy expenses for Olney. As represented in the FY2017 audited

financial statements, Olney continues to occupy the space in the ACE/Dougherty facility at a rental rate of \$240,000 per year based on the lease terms.

- m. Upon request by the School District's Office of Auditing Services, Olney failed to produce fully descriptive insurance claims made and insurance claims paid information.
- n. The School District's Office of Auditing Services reported a 2012-2013 school year attendance finding of \$251,255 and a 2013-2014 school year active office roll (AOR) finding of \$108,111.24;

So be it;

RESOLVED, that there are substantial grounds for nonrenewal of the Olney Charter; and be it

FURTHER RESOLVED, that the SRC will conduct a public hearing on nonrenewal of the Charter School's Charter commencing on or about April 1, 2018, subject to rescheduling, at which hearing the School District will present evidence in support of the grounds for nonrenewal of the Charter School's Charter, and the Charter School will be given the reasonable opportunity to offer testimony and exhibits in support of why the Charter School's Charter should be renewed; and be it

FURTHER RESOLVED, that the SRC hereby delegates its authority to conduct such public hearing either to a single Commissioner, to a Committee of two Commissioners or to a Hearing Officer to be appointed by the Chair of the SRC; and be it

FURTHER RESOLVED, that the SRC or a Board of Education for the School District will take formal action on the nonrenewal or renewal of the Charter following the hearing at a public meeting, after the public has had thirty (30) days to provide comments to the SRC or a Board of Education.

APPENDIX B

RESOLUTION

Re: John B. Stetson School; an ASPIRA, Inc. of Pennsylvania School; Notice of Nonrenewal of Charter

WHEREAS, in January, 2010, the School Reform Commission ("SRC") adopted the Renaissance Schools Initiative Policy, which authorized the SRC to grant Renaissance charters as part of the Renaissance Schools Initiative of The School District of Philadelphia ("School District"); and

WHEREAS, the John B. Stetson School ("Stetson School") had been identified as a School District school which needed fundamental change through the Renaissance Schools Initiative to facilitate a transformation of the learning environment; and

WHEREAS, the purpose of the Renaissance Schools Initiative was to dramatically improve the learning environment in underperforming School District schools to create highly effective schools that provide exceptional opportunities for student academic achievement and preparedness for success in college and the workforce; and

WHEREAS, for charter schools participating in the Renaissance Schools Initiative, in order to adhere to the mission of the Renaissance Schools Initiative and to maintain high levels of accountability, academic requirements could exceed performance targets for non-Renaissance charter schools; and

WHEREAS, pursuant to the Charter School Law, 24 P.S. § 17-1701-A *et seq.*, the SRC granted a charter to JOHN B. STETSON CHARTER SCHOOL; AN ASPIRA, INC. OF PENNSYLVANIA SCHOOL ("Stetson" or "Charter School") in 2010 to operate the Stetson School as a charter school for a five-year term commencing on July 1, 2010; and

WHEREAS, Stetson is managed by ASPIRA of Pennsylvania, Inc. ("ASPIRA, Inc."), a charter management organization ("CMO");

WHEREAS, Stetson submitted a renewal application to the Charter Schools Office ("CSO") of the School District in October 2014, and Stetson seeks renewal of its Charter; and

WHEREAS, members of the CSO have reviewed the academic performance, organizational compliance and viability, and fiscal health and sustainability of Stetson during the existence of the Charter School and have concluded that there are grounds for the SRC not to renew the Charter under Section 1729-A of the Charter School Law; and

WHEREAS, the following are grounds for nonrenewal of Stetson's Charter and termination of the charter agreement, pursuant to Section 1729-A(a) of the Charter School Law:

1. During the 2010-2011 school year, 49.9% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2011-2012 school year, 63.5% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2012-2013 school year, 50.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 36.3% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, from the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 27.2 percentage points on the Math PSSA exam

2. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 7.2% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 2.8% of Stetson students scored proficient or advanced on the Math PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 2.6% of Stetson students scored proficient or advanced on the Math PSSA exam. Thus, under the new Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.6 percentage point decrease in PSSA Math proficiency.

3. During the 2010-2011 school year, 31.6% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2011-2012 school year, 36.0% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2012-2013 school year, 31.2% of Stetson students scored proficient or advanced on the Reading PSSA exam. During the 2013-2014 school year, the last school year prior to the change in the PSSA, 28.3% of Stetson students scored proficient or advanced on the Reading PSSA exam. From the 2011-2012 school year to the 2013-2014 school year, the percent of students at Stetson scoring proficient or advanced decreased by 7.7 percentage points on the Reading PSSA exam.

4. During the 2014-2015 school year, under the new Common Core-aligned PSSA, 18.3% of Stetson students scored proficient or advanced on the English Language Arts ("ELA") PSSA exam. During the 2015-2016 school year, also under the new Common Core-aligned PSSA, 15.2% of Stetson students scored proficient or advanced on the ELA PSSA exam. During the 2016-2017 school year, also under the new Common Core-aligned PSSA, 12.4% of Stetson students scored proficient or advanced on the ELA PSSA exam. Thus, under the new Common Core-aligned PSSA, from the 2014-2015 school year to the 2016-2017 school year, the Charter School had a 5.9 percentage point decrease in PSSA ELA proficiency.

5. During the 2010-2011 school year, 3.6% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2011-2012 school year, 5.3% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2012-2013 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2013-2014 school year, 9.0% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2014-2015 school year, 8.7% of Stetson students in grade 8 scored proficient or advanced on the Science PSSA exam. During the 2015-2016 school year, 8.4% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. During the 2016-2017 school year, 3.9% of Stetson students in Grade 8 scored proficient or advanced on the Science PSSA exam. Thus, from the

2014-2015 school year to the 2016-2017 school year, the Charter School had a 4.8 percentage point decrease in PSSA Science proficiency for Grade 8.

6. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in only two of the seven school years. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in School District schools were 59.3% in 2010-2011, 52.6% in 2011-2012, 48.0% in 2012-2013, 46.3% in 2013-2014, 16.2% in 2014-2015, 17.5% in 2015-2016, and 18.8% in 2016-2017.

7. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in School District schools were 55.8% in 2010-2011, 53.2% in 2011-2012, 44.2% in 2012-2013, 44.1% in 2013-2014, 33.4% in 2014-2015, 34.3% in 2015-2016, and 35.1% in 2016-2017.

8. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded School District of Philadelphia proficiency rates in no school year. Proficiency rates in Science on the PSSA for Grade 8 for students in School District schools were 26.0% in 2010-2011, 24.1% in 2011-2012, 27.4% in 2012-2013, 28.6% in 2013-2014, 28.4% in 2014-2015, 28.5% in 2015-2016, and 22.5% in 2016-2017.

9. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Math proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Math on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar charter schools were 62.1% in 2010-2011, 64.9% in 2011-2012, 57.9% in 2012-2013, 54.1% in 2013-2014, 14.9% in 2014-2015, 15.2% in 2015-2016, and 17.2% in 2016-2017.

10. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Reading/ELA proficiency rates on the PSSA exam met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Reading/ELA on the PSSA for Grades 5 – 8 for students in Philadelphia brick and mortar charter schools were 57.0% in 2010-2011, 57.5% in 2011-2012, 51.1% in 2012-2013, 50.6% in 2013-2014, 38.5% in 2014-2015, 38.2% in 2015-2016, and 39.8% in 2016-2017.

11. During the period from the 2010-2011 school year through the 2016-2017 school year, Stetson's Science proficiency rates on the PSSA exam for Grade 8 met or exceeded the Charter School sector proficiency rate in no school year. Proficiency rates in Science on the PSSA for Grades 8 for students in Philadelphia brick and mortar charter schools were 31.8% in 2010-2011, 32.0% in 2011-2012, 32.8% in 2012-2013, 32.3% in 2013-2014, 32.5% in 2014-2015, 31.0% in 2015-2016, and 26.2% in 2016-2017.

12. The PSSA Math proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 School Progress Report ("SPR") peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Math exam were 10.4% in 2014-2015, 10.4% in 2015-2016, and 11.0% in 2016-2017.

13. The PSSA Reading/ELA proficiency rates for Stetson did not exceed the proficiency rate for students attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA ELA exam were 27.9% in 2014-2015, 27.9% in 2015-2016, and 26.4% in 2016-2017.

14. The PSSA Science Grade 8 proficiency rates for Stetson did not exceed the proficiency rate for students in Grade 8 attending schools in Stetson's 2015-2016 SPR peer group for the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year. 2015-2016 SPR peer group schools proficiency rates for the PSSA Science exam for Grade 8 were 22.8% in 2014-2015, 22.3% in 2015-2016, and 17.4% in 2016-2017.

15. Stetson's School Performance Profile ("SPP") score was 57.3 for the 2012-2013 school year, the first year an SPP score was generated by the Pennsylvania Department of Education ("PDE"), 48.8 for the 2013-2014 school year, 37.7 for the 2015-2016 school year, and 46.5 for the 2016-2017 school year. PDE did not produce SPP scores for schools serving students in Kindergarten through Grade 8 for the 2014-2015 school year. All of Stetson's SPP scores were in the lowest SPP category of 60 or below, and all were significantly below a SPP score of 70, the minimum SPP score PDE has identified as meeting academic performance expectations.

16. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all School District-operated schools. The School District school building level average SPP score was 57.5 in 2012-2013, 57.3 in 2013-2014, 52.7 in 2015-2016, and 52.8 in 2016-2017.

17. Stetson's SPP scores in the 2012-2013 school year, the 2013-2014 school year, the 2015-2016 school year, and the 2016-2017 school year were below the average SPP building level score for all Philadelphia brick and mortar charter schools. The Philadelphia brick and mortar Charter School building level average SPP score was 66.0 in 2012-2013, 63.6 in 2013-2014, 56.8 in 2015-2016, and 58.0 in 2016-2017.

18. Stetson did not meet the Pennsylvania academic growth standard, the Average Growth Index ("AGI"), on the Math PSSA exam in the 2013-2014 school year or the 2015-2016 school year.

19. Stetson did not meet the Pennsylvania academic growth standard, the AGI, on the Science PSSA for Grade 8 for the 2010-2011 school year, the 2011-2012 school year, the 2012-2013 school year, the 2013-2014 school year, the 2014-2015 school year, the 2015-2016 school year or the 2016-2017 school year.

20. When comparing Stetson student academic achievement levels to the State's Annual Measureable Objectives ("AMOs") in Math and Reading for the 2012-13 school year, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading PSSA exam for any of the eight student subgroups identified (Historically Underperforming, Individualized Education Plan ("IEP"), English Language Learner, Economically Disadvantaged, Male, Female, Black or African American and Hispanic), except for English Language Learners and Black students on the Math PSSA exam.

21. When comparing Stetson student academic achievement levels to the AMOs in Math and Reading for the 2013-2014 school year, the last year in which PDE made AMO information available, Stetson did not meet the AMO targets on the Math PSSA exam or on the Reading/ELA PSSA exam for any of the eight student subgroups identified.

22. Stetson had a federal accountability designation of "Focus" for the 2012-2013 school year, the 2013-2014 school year and the 2014-2015 school year meaning that Stetson was in the lowest 10% of Title I schools based on having the highest achievement gap for the Historically Underperforming Students annual measurable objective.

23. Stetson failed to meet commitments made in its original charter application including: "dramatic improvements in academic achievement," "all children enter every grade on level," "the opportunity and achievement gap is closed for all students" and "all students who want to go to college are ready to do so."

24. Stetson failed to have all special education staff appropriately certified, as required by PDE regulations. According to Stetson's 2015 and 2017 Annual Reports, one special education teacher at Stetson in the 2014-2015 school year and in the 2016-2017 school year was not appropriately certified.

25. Stetson failed to have all English as a Second Language ("ESL") instructional staff appropriately certified as required by PDE regulations. As documented in the 2016 Annual Charter Evaluation ("ACE") based on information submitted by Stetson to the CSO, at least one ESL instructor in the 2016-2017 school year was not appropriately certified.

26. During the charter term and into the 2016-2017 school year, Stetson did not have fully compliant and equitable student admission policies in accordance with the Charter School Law and the Public School Code in that:

- a. As identified at the time of the renewal evaluation in the 2015-2016 school year, during the charter term Stetson's enrollment form previously required a parent or guardian to provide information about the child's United States citizenship status, the child's social security number, and information on whether the child has physical/educational challenges or an IEP which is not permissible under PDE guidance. Stetson's enrollment form was three pages long and required parents or guardians to respond to seven short answer questions and required the student to respond to five short answer questions, which is not permissible under PDE guidance.

- b. As of December 2017, Stetson's website provided limited time periods, Monday to Friday from 8:30 to 11:30am in person, when registration and transfers could take place at Stetson. As a Renaissance charter school, Stetson is expected to maintain an ongoing enrollment and transfer process placing students on an ordered waitlist if the Charter School has met or exceeded its enrollment cap.
- c. During the 2016-2017 school year, Stetson's enrollment materials did not require submission of proof of age, proof of residency, immunization, home language survey or parent registration statement; all five documents are enrollment materials required by PDE guidance. Stetson addressed this noncompliance with PDE guidance after July 2017, upon receiving a Notice of Deficiency from the CSO.
- d. For school years 2010-2011 through 2016-2017, Stetson implemented an enrollment policy whereby any Philadelphia resident children from grades 5 to 8 residing within, and space permitting, residing outside of Stetson's Attendance Zone, were eligible for admission to the Charter School. As a Renaissance charter school, Stetson is required to enroll students on a first come, first serve basis only from the Attendance Zone as in Stetson's Charter.

27. Stetson, in its renewal application, reported one expulsion in the 2010-2011 school year, one expulsion in the 2012-2013 school year and one expulsion in the 2013-2014 school year. However, the Board minutes for the 2010-2011 school year, the 2011-2012 school year and the 2013-2014 school year do not indicate that the Board of Trustees for Stetson approved any expulsions in accordance with the Public School Code and the Charter School's Bylaws.

28. The Board of Trustees of Stetson failed to operate in accordance with applicable law and Stetson Bylaws and policies in that:

- a. While the Stetson Bylaws state that Board members would serve for three-year terms, two Board members served for more than three years during the period of the 2010-2011 school year through the 2016-2017 school year. A current Board member has served on the Board since the 2012-2013 school year and per Board minutes submitted to the CSO, the Board member's term expired June 30, 2016.
- b. The Stetson Bylaws state that officers should be elected at the Annual Board Meeting in June. The Board of Trustees did not provide Board minutes stating that officers were elected at any Annual Board Meeting during the Charter Term. Although a Chair and Secretary were elected in June 2017, these elections do not reflect a complete slate of Board officers.
- c. Board minutes for the charter term through the renewal evaluation in the 2015-2016 school year, did not clearly state the opening and closing of Board meetings specifically for Stetson, as opposed to the other three ASPIRA-managed brick and mortar charter schools; Board meetings for all ASPIRA-managed charter schools

are held concurrently with specific business or approvals by individual charter school not clearly delineated.

- d. The Bylaws provide for an Executive Committee that “shall have the authority of the Board; except that no such committee shall have the authority to (i) fill vacancies on the Board or any committee thereof; (ii) amend the by-laws; (iii) approve a plan or merger; (iv) dismiss members of the Board.” This raises concerns regarding a subset of Board members acting on behalf of the entire Board on the operations and functioning of the Charter School.
- e. As public officials under the Pennsylvania Public Official and Employee Ethics Act, members of the Board of Trustees are required to complete Statements of Financial Interest annually by May 1. Stetson did not provide complete Statements of Financial Interest forms for all Board members for all years during the Charter Term. Additionally for calendar year 2016, Statements of Financial Interest for Board members were completed, dated and signed after the due date of May 1, 2017.

29. Stetson failed to meet the 100% highly qualified teacher (“HQT”) requirement during the period from the 2012-2013 school year through the 2015-2016 school year, as required by the No Child Left Behind Act as reported by PDE. In the 2012-2013 school year, only 71% of the PDE-specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2013-2014 school year, only 73% of the PDE specified core academic classes taught at Stetson were taught by highly qualified teachers. In the 2014-2015 school year, only 92% of the core academic classes at Stetson were taught by highly qualified teachers. In the 2015-2016 school year, only 89% of the core academic classes at Stetson were taught by highly qualified teachers.

30. Stetson’s audited financial statements were not issued on or before December 31 for FY2012 through FY2014 and for FY2016 as required by the Pennsylvania Public School Code. The FY2012 audit was issued in April 2013; the FY2013 audit was issued in January 2014; the FY2014 audit was issued in February 2015; and the FY2016 audit was issued on February 2, 2017.

31. Stetson failed to make certain required payments to the Public School Employees' Retirement System (“PSERS”) during the Charter Term and the amounts of missed payments were subsequently deducted from the School District's basic education subsidy. The School District recovered from Stetson the following funds, which Stetson failed to pay to PSERS: \$1,096 in March 2012, \$45,317 in June 2012, and \$240 in May 2013.

32. Stetson has failed to meet generally accepted standards of fiscal management and audit requirements related to short-term financial health and long-term financial sustainability in that:

- a. At the time of the renewal evaluation during the 2015-2016 school year, Stetson had not adopted and implemented sufficient internal controls policies. The School District’s Office of Auditing Services noted no definitive internal control

policy related to the allocation of disbursements servicing more than one charter school.

- b. At the time of the renewal evaluation during the 2015-2016 school year, Stetson and ASPIRA employees had debit/credit cards for use in making Stetson school purchases without specific approval and oversight processes. Discrepancies existed between how the Stetson Board of Trustees and school leadership described the process for requesting and approving use of Stetson's debit/credit card.
- c. At the time of the renewal evaluation during the 2015-2016 school year, monthly invoicing requirements set forth in the management agreement were not followed as specified during the Charter Term.
- d. At the time of the renewal evaluation during the 2015-2016 school year, the School District's Office of Auditing Services noted that transactions between Stetson and related parties (ASPIRA and other ASPIRA-managed charter schools) did not contain an indication of Board approval by Stetson, or other ASPIRA-managed charter schools, where applicable, or appropriate supporting documentation. No written contracts were in place for the majority of funds shifted between related parties outside of the management agreement between ASPIRA and Stetson. Stetson's FY2017 independent financial audit noted that any amounts owed related parties are unsecured, non-interest bearing and have no repayment terms.
- e. Stetson was owed significant funds from ASPIRA, Stetson's CMO, during the period FY2011 through FY2017 including \$495,740 in FY2011, \$790,736 in FY2012, \$1,877,802 in FY2013, \$805,449 in FY2014, \$164,835 in FY2015, and \$233,844 in 2017.
- f. As of June 30, 2011, Stetson owed \$792,796 to two other ASPIRA-managed charter schools. As of June 30, 2012, Stetson owed \$906,545 to three other ASPIRA-managed charter schools. As of June 30, 2013, Stetson owed \$1,023,195 to four other ASPIRA-managed charter schools. As of June 30, 2014, while Stetson no longer owed money to other ASPIRA-managed charter schools, Stetson was owed \$90,731 by another ASPIRA-managed charter school. As of June 30, 2015, Stetson owed \$31,397 to four ASPIRA-affiliated entities.
- g. Of the six metrics of short-term and long-term financial health, Stetson's financial position was less healthy as of the end of FY2017 than as of the end of FY2015 in five of six financial metrics – Current Ratio, Average Cash Days on Hand, Net Position, Fund Balance, and Debt Ratio; only Total Margin showed improvement during that time period. During the 2016-2017 school year, Stetson was invoiced by ASPIRA for administrative services and charter management fees totaling \$3,437,773 or 28% of total revenues for Stetson in FY2017. In FY2015, Stetson

was invoiced \$1,117,976 for administrative services. In FY2017, Stetson was invoiced \$3,009,297 for administrative services.

- h. From FY2011 to present, Stetson's revenue and financial resources have been used for non-Stetson purposes, in violation of the Charter School Law and the Pennsylvania Nonprofit Corporation Law. Stetson was not financially independent from other ASPIRA-managed charter schools or from ASPIRA-affiliated entities. Stetson is obligated under security agreements, guaranties and other financial instruments to secure the debts of other ASPIRA-managed or ASPIRA-affiliated entities. As of June 30, 2017, Stetson had entered into security agreements pledging a portion of Stetson's assets to secure the debt of certain related parties. The holders of the debt and the outstanding liability balances are as follows:
- o ASPIRA: Stetson's revenue has been included in the security interest of a \$800,215 line of credit loan issued to ASPIRA. The loan matured on October 1, 2016 and was extended through October 31, 2017. The balance of the loan as of June 30, 2017 was \$800,215.
 - o ASPIRA Community Enterprises, Inc. ("ACE"): Stetson is the guarantor of a \$5,005,005 mortgage loan issued to ACE for the acquisition and construction loan associated with the Antonio Pantoja Charter School. The balance on the loan was \$4,447,227 for year ended June 30, 2016 and \$4,354,757 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance.
 - o ACE: Stetson's revenue has been included in the security interest of a \$1,742,573 mortgage loan issued to ACE. The mortgage loan matures in August 2018. The balance on this loan was \$1,239,345 as of June 30, 2016 and \$1,061,735 as of June 30, 2017.
 - o ACE/Dougherty, LLC ("ACE/Dougherty"): Stetson is a guarantor and Stetson's revenue has been included in the security interest of a \$12,750,000 note payable issued to ACE/Dougherty for the acquisition, construction and renovation for a building for Eugenio Maria de Hostos Charter School. The balance on the loan was \$8,496,247 for year ended June 30, 2016 and \$8,154,432 for year ended June 30, 2017. This loan matured October 1, 2016 and was extended to October 31, 2017. This loan is in forbearance. While both charter schools have service level agreements with ASPIRA, ACE/Dougherty does not provide services or resources that benefit Stetson.
- i. Upon request by the School District's Office of Auditing Services, Stetson failed to produce fully descriptive insurance claims made and insurance claims paid information.
- j. ASPIRA management failed to appropriately address questionable sampled attendance items for Stetson after identification by the School District's Office of Auditing Services.

RESOLVED, that there are substantial grounds for nonrenewal of the Stetson Charter; and be it

FURTHER RESOLVED, that the SRC will conduct a public hearing on nonrenewal of the Charter School's Charter commencing on or about April 1, 2018, subject to rescheduling, at which hearing the School District will present evidence in support of the grounds for nonrenewal of the Charter School's Charter, and the Charter School will be given the reasonable opportunity to offer testimony and exhibits in support of why the Charter School's Charter should be renewed; and be it

FURTHER RESOLVED, that the SRC hereby delegates its authority to conduct such public hearing either to a single Commissioner, to a Committee of two Commissioners or to a Hearing Officer to be appointed by the Chair of the SRC; and be it

FURTHER RESOLVED, that the SRC or a Board of Education for the School District will take formal action on the nonrenewal or renewal of the Charter following the hearing at a public meeting, after the public has had thirty (30) days to provide comments to the SRC or a Board of Education.

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: FRANKLIN TOWNE CHARTER MIDDLE SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia ("School District") by the applicant for the Franklin Towne Charter Middle School ("FTCMS", "Applicant" or "Charter School"). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office ("CSO") assists the SRC and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (FTCMS 1-1358).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "FTCMS."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 22, 2018. The public hearings were each stenographically recorded.³
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2NtlSkJDWmQ4YXVGQk0/view.
 - b. The Application including all submitted attachments (FTCMS 1-1358);
 - c. The Applicant's letter of intent to file the Application (FTCMS 1359);
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (FTCMS 1350-1378);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (FTCMS 1379-1394);
 - f. The Experienced Operator Addendum for supplied by the CSO for Franklin Towne Charter Middle School ("FTCMS"), which was marked as School District Exhibit No. 2 (FTCMS 1395-1396);
 - g. The Experienced Operator Addendum for supplied by the CSO for Franklin Towne Charter High School ("FTCHS"), which was marked as School District Exhibit No. 3 (FTCMS 1397-1398);
 - h. The concluding document filed by the Applicant (FTCMS1399-1404);

³ The Notes of Testimony from the two hearings will be referred to as "12/18/17 N.T. ____" and "1/22/18 N.T. ____", respectively.

- i. Public comments received by the SRC during the advertised public comment period (FTCMS 1405-1425); and
 - j. Transcripts from the hearings held on December 18, 2017 and January 22, 2018.
10. Supplemental materials were not accepted following receipt of any of the new applications. The 2017-2018 application form published by the School District specifically states on page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

11. The name of the person applying for the charter is Joseph M. Venditti, Esq., who is the Chief Executive Officer (“CEO”) of FTCHS. FTCHS is the proposed management company for the Charter School. (FTCMS 1, 28).
12. The name of the proposed charter school is the Franklin Towne Charter Middle School. (*See e.g.* FTCMS 1).
13. The Charter School seeks a five-year charter for the school years 2019-2020 through 2023-2024 to be located at 2275 Bridge Street in Building/Unit 215 in the Frankford Arsenal. (FTCMS 1, 32, 39, 56).
14. The Charter School plans to open in year 1 with a stand-alone middle school serving 450 students in grades 6-8. Thereafter, the Charter School would operate for the remainder of the charter term with the same grade 6-8 structure and 450-student enrollment. (*Id.*)
15. The Charter School would be a city-wide admission school. (1/22/18 N.T. 32).
16. The instant Application is not the first time that an application to establish FTCMS was filed with the SRC. The Applicant filed an initial application for FTCMS in the 2014-2015 school year, which was denied by the SRC on February 18, 2015, by Resolution No. SRC-

8 (“SRC-8”). See, SRC-8 and accompanying adjudication, attached hereto as Appendix “A”.

FTCHS

17. FTCHS is a charter school operating with a grade 9-12 structure. FTCHS also serves as the management company for FTCES, a K-8 school (collectively, FTCES and FTCHS shall be referred to as “Franklin Towne schools”). (FTCMS 37, 48).
18. During the 2016-2017 school year, FTCES applied for an amendment to its existing charter seeking to add 375 middle school seats in the 2275 Bridge Street property in the Building 215 facility, the same facility now proposed to house FTCMS.
19. On June 15, 2017, by Resolution No. SRC-9 (“SRC-9”), the SRC denied FTCES’s amendment request and adopted an Adjudication in support of the denial. See, SRC-9 and accompanying Adjudication attached hereto as Appendix “B”.

Curriculum and Educational Programming Proposed for FTCMS

20. The existing Franklin Towne schools are not city-wide admission schools, and both existing schools serve extremely low numbers of English Learners (“ELs”). (1/22/18 N.T. 26-27). According to the School Performance Profile (“SPP”) for FTCES, the percentage of ELs enrolled at FTCES in the 2016-2017 school year was 0.88% of 910 students. See <http://www.paschoolperformance.org/Profile/15014>. The percentage of ELs enrolled at FTCHS in the 2016-2017 school year was 0.67% of 1193 students. See <http://www.paschoolperformance.org/Profile/7223>.
21. The School District’s average EL population is 10%. (FTCMS 1391; 1/22/18 N.T. 113).
22. The Application does not address the anticipated EL population that the Charter School might serve given its city-wide admission practice. Nor does the staffing plan or budget

submitted include any staffing to serve EL students. If enrollment is consistent with the School District's average incidence of ELs, the Charter School could enroll 45 EL students in year 1. (FTCMS 1391).

23. Attachment 2 to the Application contains FTCMS's English Language Learners Policy. (FTCMS 467-472). The ELL Policy is not compliant with the Every Student Succeeds Act ("ESSA") or the updated Basic Education Circular ("BEC") entitled "Educating English Learners", published by the Pennsylvania Department of Education ("PDE") on July 1, 2017. Attachment 2 of the Application references the BEC issued by PDE on July 1, 2001. (FTCMS 467).
24. Several deficiencies have been identified by the CSO related to the EL programming provided to the few EL students in Franklin Towne's existing schools during their respective charter terms. Such deficiencies include a failure to administer the ACCESS exam for progress assessment, failure to notify families about placement in an ESL program, and a failure to provide EL students with five days of instruction. (FTCMS 1396, 1398).
25. The Applicant did not submit a specific professional development plan for the new school (for pre-service in the 2018-2019 school year or for the 2019-2020 school year), and the narrative does not identify the specific professional development sessions or subjects that will be addressed; or when those specific opportunities would occur both prior to the start of the school year or thereafter to reflect that new staff would receive appropriate training.
26. The school calendar submitted for the 2019-2020 school year does not reflect any in-service training or professional development that would occur with staff prior to the first day of school on August 26, 2019. (FTCMS 523).

27. The CSO presented an Evaluation Report of the Application at the January 22, 2018 hearing. (FTCMS). The following observations by the CSO regarding the curriculum, educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

According to the applicant, the curriculum described could be modified to meet the needs of all learners (page 5); however, evidence of possible modifications or differentiation was limited, and the applicant failed to present a rationale for why the proposed curriculum and instructional model are likely to be successful with the targeted community and grade span. The application describes a personalized learning environment to allow for learning that could be 'personal and relevant' to each student (page 7); yet, there is no reference to curriculum and instructional materials being culturally relevant and inclusive. As the applicant did not describe differentiation or cultural relevance of the curriculum, the absence of lesson plans in all subjects to be taught in Year 1 prevented evaluators from determining if these statements by the applicant would be realized . . .

In reviewing the curriculum evaluators identified several gaps in alignment with the Pennsylvania Core Standards (PA Core) and noted several areas where a complete set of curricular materials were not provided. As the Charter School intends to open at full scale in Grades 6-8, curricular materials for all grade levels and subjects provided were reviewed; subjects provided were ELA, math, science, social studies, physical education/health and technology . . . As previously stated, lesson plans were not provided for any subject. Unit plans were only partially provided for ELA (via curriculum maps), science and social studies. Specific unit goals, objectives, assessments, instructional materials and resources were not identified for any subject area with the exception of ELA. The ELA curriculum was misaligned to the PA Core in that several Pennsylvania Academic Standards were not evident. For example, in Grade 7 ELA, alignment was not clearly evident for Informational Text and Writing, Information Text, Reading Literature and Speaking and Listening. In Grade 8 ELA, Informational Text and Writing, Reading Literature, and Speaking and Listening were also not clearly aligned to the PA Core. The 8th Grade proposed math course is Geometry and is missing several standards from the Geometry section of the PA Core, as well as standards from other strands including solving equations and systems of equations. No curricular materials were provided for art and music or any specials beyond the aforementioned physical education/health and technology. There is also not information regarding student mastery included in the documentation even though the applicant states that mastery is a cornerstone of the educational program (page 8). Thus, the applicant failed to provide a clear and cohesive, locally developed

curriculum with requisite curriculum materials for all grade levels and subjects to be taught in Year 1.

The evaluation team found that in key aspects of the academic plan, instead of providing robust supporting details of the proposed school's plan, the applicant instead relied on describing prior practices and the performance of other schools managed by FTCHS that serve different grade levels operated by this applicant (page 9-10). The applicant made minimal reference to the expected differences and likely challenges in serving students arriving in 6th grade and did not provide any data regarding the expected level of academic preparation of the incoming students. As such, the applicant failed to provide any evidence that the academic model, staffing model, curriculum or students supports would be able to meet student needs and ensure success . . .

The percent of fifth grade students scoring below basic in District schools, which presumably would be the target population for an applicant seeking to provide quality school choice options for students and families through the proposed Charter School, is seven times more than at FTCHS. Yet, the application was mostly silent on how this achievement gap would be addressed and does not provide any rationale for why the proposed academic plan would best serve these students. Additionally, the budget lacked identification of targeted resources to assist academically struggling students (co-teachers, instructional coaches, multiple-tiered support service coordinators, etc.)

[E]valuators were concerned about the absence of clear details for how struggling students are supported through research-based interventions and supports The RtII system is not incorporated in this response, nor any references to what triggers a more significant level of support [other than pull-in and pull-out models]. Evaluators indicated these plans appeared to generally focus on inputs instead of output (page 9, 15). In responding to how special education students and ELs would be supported inside and outside the classroom, the applicant only mentions after-school and office hour tutoring support and reinforces the success of FTCHS, which is a completed different grade band (page 10) Evaluators were particularly concerned that no information was provided regarding expected enrollment levels of ELs, that the projected enrollment rate of special education students (12%) was 50 percent below that of the District average (18%) for Grades 6 through 8 and that the applicant did not indicate which of the 13 primary disabilities they would seek to serve via the proposed blended inclusion educational model.

The submitted English as a Second Language (ESL) Policy appears outdated as it references No Child Left Behind (NCLB) and a Basic Education Circular (BEC) dated 2001 regarding Education Students with Limited English Proficiency. The BEC, however, was updated in 2009 and 2017. The ESL Policy included educational program descriptions that do not fully align with the recent 2017 BEC. The Language Instruction Education Plan (LIEP) suggested services outlined I the

ESL Policy are not provided for Level I ELs, only Levels 2-5, which is non-compliant with PDE guidance. In addition, the narrative does not differentiate between special education support programs and EL support programs and primarily focuses on special education programming, not ESL programming (page 9). Based on the staffing plan provided, the special education teachers would be dual certified for ESL, which raised concerns about instructional staff capacity for evaluators.

(FTCMS 1384-1386).

28. The Charter School will offer Spanish to all students in all grade levels in year 1. (1/22/18 N.T. 31). No curricular documents were submitted for Spanish.

29. The Applicant's student retention policies are identified on FTCMS 18. Two types of credit recovery programs will be available for students who have failed up to 2 academic classes by not achieving a grade of 70 or better: (i) summer school provided by FTCMS staff at no cost to students; and (ii) online credit recovery through EduCere, which will be at a cost to parents of \$450 per course. (FTCMS 18; 1/22/18 N.T. 40-43).

Community Support

30. The Application includes the following community support documents:

- a. Twenty-six letters of support from elected officials, businesses and civic groups, but seven (7) of the letters are from businesses either located outside of Philadelphia or Pennsylvania or without a stated address in Philadelphia. (FTCMS 1022-1047).
- b. Names and email addresses from an online petition to "support the establishment and operation of FTCMS". No residency information was provided for any individual, so it is not known if any of the electronic signers are residents of Philadelphia. (FTCMS 1049-1070).
- c. A handwritten petition in support of FTCMS bearing signatures and email addresses but no physical addresses of any individual (FTCMS 1071-1090).

- d. “Pre-Enrollment Forms” for 234 non-duplicative students. (FTCMS 1092-1355).

Many of the forms were collected in the 2015-2016 and 2016-2017 school years based upon the date contained in the form. All but 84 of the forms are for students who would be in a grade beyond 8th grade during the 2019-2020 school year.

- e. The Application did not provide any wait list information for FTCES for the SRC to review.

31. No one spoke in support of the proposed Charter School at the December 18, 2017, public hearing.

32. No written letters or emails of support for the Charter School were received by the SRC during the publicized public comment period.

33. The SRC received two (2) letters asking for this specific Application to be denied and five (5) letters arguing that no charter school applications should be granted. Four individuals spoke generally against charter school expansion at the December 18, 2017 hearing. (12/18/17 N.T. 139-157).

Financial and Facility Planning

34. The proposed budget for the Charter School does not include any costs associated with substitute services, extracurricular activities, or summer school opportunities for students. The extracurricular activities to be offered to FTCMS students are described on FTCMS 20, but the budget does not contain any expenditures for such pursuits. (FTCMS 699-700, 1392).

35. Thirty thousand dollars (\$30,000) is budgeted for “OT/PT Psychological Services” for special education students. (FTCMS 699). For a school that has budgeted to serve 54

special education students in year 1 (12% of 450 students) (FTCMS 701), such costs break down to less than \$560 per student. As noted by the CSO:

The budgeted allotment for special education services, \$30,000, is significantly below charter sector average expenditures per special education student and based on the applicant's projections, would allow for less than \$600 per student in related and support services. Not only is this insufficient to support many high-incidence and all low-incidence special education students, if the Charter School's enrollment approximates the District or charter sector averages of 18% special education enrollment, this allocation becomes much smaller.

(FTCMS 1392).

36. In contrast, the Charter School is anticipating the receipt of \$27,793 per special education student, or \$1,500,822 in combined revenue for all 54 special education students in year 1. (FTCMS 702).

37. The budget does not include any expenditures for an ESL teacher. (FTCMS 698).

38. The Applicant intends to renovate the proposed facility utilizing a \$3.5 million loan from Univest bank. Following an interest-only period of the earlier of 12 months or the completion of the leasehold improvements, the loan will be amortized on a 20-year amortization schedule. (FTCMS 1012). The loan amortization payment schedule provided by the Application has a start date of September 1, 2019, and shows principal and interest payments required to be made beginning on October 1, 2019, at a monthly payment of \$23,961.88. (FTCMS 711). The total amount of principal and interest payments to be made during the 2019-2020 school year would be \$215,656.92. However, the budget reflects interest-only payments in the 2019-2020 school year totaling \$189,131.00. (FTCMS 699).

39. The Applicant's Travel and Business Expense Reimbursement Guideline was taken from another source, likely Vassar College, and does not contain terms that are consistent with the Application or appropriate for a public charter school. (FTCMS 744, 1392).

Governance Issues

40. The CEO of the FTCHS is Joseph Venditti ("Venditti"). (FTCMS 28).
41. The Articles of Incorporation submitted by the Applicant were missing the page in which the incorporator is identified. (FTCMS 635-636). At the hearing, Venditti was identified as the incorporator of FTCMS. (1/22/18 N.T. 81-82). The Application narrative states that the incorporator will select all of the initial board members for FTCMS. (FTCMS 28, 45).
42. The Application identifies various individuals who will serve on the FTCMS Board. (FTCMS 45). At no time in the narrative contained in the Application did the Applicant identify the individuals who serve on the FTCHS board. At the hearing, the Applicant confirmed that there will be Board overlap among the individuals who serve on the FTCHS board, the management company's board, and the FTCMS board. Specifically, the following individuals will serve on both boards: Cynthia Marelía, Nancy Hartey, Eugene McAleer and James Rodgers. (1/22/18 N.T. 56-57). Ms. Marelía currently is the Chair of both the FTCHS and the FTCES boards. (*Id.*)
43. Venditti, the CEO of FTCHS, will be a non-voting member of the FTCMS board. (FTCMS 637).
44. The Bylaws for FTCMS call for the creation of an Executive Committee on which four (4) officers of the FTCMS board will serve along with Venditti, the CEO, as a non-voting member. (FTCMS 640). The school leader of FTCMS will not sit on the Executive Committee or be a non-voting member of the FTCMS Board.
45. The Bylaws permit the FCTMS Board members to remove a member when the board, in its best judgment, believes the best interest of the corporation would be served. (FTCMS 641).

46. The school leader of FTCMS will not be a direct report to the FTCMS Board, pursuant to the Applicant's organizational chart, but would rather report to the FTCHS CEO and CAO. (FTCMS 29, 46, 483, 495).
47. The management relationship between FTCHS and FTCMS will be governed by a management contract. The contract that was submitted does not include any performance standards related to the academic performance of FTCMS.
48. Omnivest will provide business management services to FTCMS.
49. Business and financial reporting functions identified as services to be provided by FTCHS, and included in the management fee to be paid to FTCHS, are also services to be provided by Omnivest under the FTCMS contract with Omnivest. For example, under their respective contracts, both Omnivest and FTCHS are required to prepare the annual budget and monthly financial statements. (Cf., FTCMS 664-665, 686-687; 1/22/18 N.T. 69-73).
50. Statements made by the Applicant at the hearing raise concerns about the proposed management fee to FTCHS. The management contract and budget identify the fee as \$250,000 in year 1. (FTCMS 688, 698). However, at the hearing, when asked about the percentage of time that FTCHS staff would be devoting to FTCMS in accordance with the representations in FTCMS 697, the applicant indicated that "if you were to add up all of the salaries [of FTCHS] divided by the proposed percentage of time dedicated to the proposed school, it would far exceed the 250, so this has been adjusted. Or this would need to be adjusted." (1/22/18 N.T. 67). Such a statement indicates one of two scenarios: (i) that the management fee will actually increase due to higher percentages of time being devoted to FTCMS; or (ii) that revenue received by FTCHS will actually be used to subsidize

services being performed for a different entity, FTCMS, because FTCMS will not be paying its fair share of the services received from FTCHS.

51. FTCHS owns the building that FTCMS would use as its facility. (FTCMS 56).

52. FTCHS will lease the facility to FTCMS. Rent paid by FTCMS to FTCHS in year 1 is scheduled to be \$250,164. (FTCMS 994-1011).

53. The submitted lease (FTCMS 1008) does not identify who would sign it on behalf of each party given the fact that the Boards for each entity include the same individuals and that the CEO serves as CEO for both entities.

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 SRC examines the Application.

III. Analysis Under the CSL

A. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate “sustainable support for the charter school plan by teachers, parents, other community members and students” within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). “Sustainable support” has been defined by CAB as “support sufficient to sustain and maintain a proposed charter school as an ongoing entity.” *Bear Creek Community Charter School*, CAB No. 2003-3; *Ronald Brown Charter School*, CAB No. 1999-1. Sustainable support is “an inherent variable based upon the size of the proposed school, the size of the community and other factors.” *Environmental Charter School*, CAB No. 1999-4. Sustainable support is measured in the

aggregate and not by individual categories. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa.Cmwlt. 2003). The appropriate measurement for sustainable support is against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB No. 2004-2, at 6-7.

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB No. 2000-14. The support documents, including petitions, must clearly identify that the signers or supporters are school district residents to be considered as evidence of sustainable support. *Dr. Lorraine K. Monroe Academy Charter School*, CAB No. 2000-16.

In addition to the aforementioned concepts, charter schools are mandated to develop and implement strategies for meaningful parent and community involvement. 24 P.S. § 17-1715-A(2). Section 1719-A(8) requires applications to contain, *inter alia*: “[i]nformation on the manner in which community groups will be involved in the charter school planning process.” 24 P.S. § 17-1719-A(8). Whether or not an applicant has developed any community partnerships as of the time of the application is a valid consideration relating to its community support. *Duquesne Charter School Founding Group d/b/a/ Duquesne Charter School v. Duquesne City School District*, CAB No. 2013-01, at 8, n.1 (hereinafter referenced as “*Duquesne Charter School*”).

The Charter School intends to enroll 450 students in its first year of operation. Although a wait list at FTCES is referenced by the Applicant in the Application, the wait list was not provided for review by the CSO or the SRC. Thus, the SRC cannot determine how many students are on the wait list; the student’s residence, age or grade; the number of duplicative students that might be in the wait list; and other pertinent considerations. Further, notwithstanding the fact that the wait list was not provided, a wait list for another charter school would not reflect parents and

students who might be interested in enrollment in grade 6-8 in a new school opening at a different location in the 2019-2020 school year.

Notwithstanding the lack of information provided for all students on the alleged wait list, the SRC disagrees that wait lists for a specific charter school are proper evidence of sustainability for a different charter school. Children who reside within the School District may be on many different waiting lists for charter schools throughout Philadelphia. It is not known whether the students on those waiting lists or application lists have been accepted elsewhere since the time when the lists were established. The charter school for which the waiting list has been established may not be located in the same zip code and area of the City as the new proposed school, so there is no guarantee that a parent will want to enroll their child in that new school. Many families have children who are already enrolled in the existing charter school and have brothers or sisters who are on a waiting list or who have applied to that same school, with no interest in having the siblings split up across the City. Similarly, the new school may have a different curriculum or educational focus, a different grade structure or enrollment numbers, a different staff or any number of other factors that differ from the existing charter school, such that the parents may not have an interest in sending their children to the new school. The SRC does not know why any specific parent desires to place their child on a waiting list or submit an application for a particular school; each parent's reasons are unique. For these reasons, the SRC will not rely on waiting lists or application lists at one charter school to justify community support for another proposed charter school. Each applicant has a unilateral responsibility to establish community support for the particular charter school being proposed.

In terms of actual support submitted, the Applicant for FTCMS submitted 19 letters of support from Philadelphia elected officials, businesses and civic organizations. No one spoke in

support of the Applicant or expansion during public comment at the first hearing or through the submission of public comments to the SRC. The pre-enrollment forms supplied by the Applicant only account for 19% (84 of 450) of the year 1 seats that will need to be filled. The signers of the online petition and the handwritten petition did not include their physical addresses for the SRC to determine if they reside in Philadelphia. Nor did any of those individuals indicate if they are parents interested in sending their children to the Charter School or if they are teachers interested in working for the Charter School.

Reviewing all of the submitted evidence of community support in the aggregate, the Applicant has not met its burden of showing sustainable support for the proposed school and for the overall charter school plan set forth in the Application, as required by Section 1717-A(e)(2)(i) of the CSL.

B. 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, of meeting the standards articulated by CAB and the appellate courts in Pennsylvania.

Governance Structure

The members of the FTCMS Board are proposed to be the same as the members of the FTCHS Board even though FTCHS is proposed to serve as both the management company and landlord for FTCMS. FTCMS will pay for the cost of building renovations that will benefit FTCHS, and will pay monthly rent to FTCHS.

Pursuant to the Pennsylvania Supreme Court's direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school may not be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school's ability to exercise its rights, including cancellation of the contract between the two entities. *Id.*

Venditti, the CEO of the proposed management company, has incorporated FTCMS and will appoint the initial board for FTCMS. Despite being on notice of the concerns raised by the SRC in previous adjudications (Appendixes A and B), the Applicant was not forthcoming about the overlap between the FTCHS Board and the FTCMS board in the Application, never once disclosing the names of the individuals serving on the FTCHS board in the Application. At least four board members, including the Board chair of both FTCHS and FTCES, would serve on both boards. The only individual who has been identified to serve on the FTCHS board who does not serve on the FTCMS currently is Michele Krajewski. Ms. Krajewski currently serves on the FTCES Board. (FTCMS 45). Not a single person who is unaffiliated with FTCHS or FTCES has been identified to serve on the FTCMS Board.

The board structure that is proposed by FTCMS and FTCHS – two boards containing the same board members for each school – is a clear violation of the CSL and the *Collegium* independence requirements. FTCHS will be providing the core administrative management for FTCMS in the form of the CEO, CAO, other central-office administrative employees and other management services in exchange for a management fee that is governed by a contractual

arrangement. Under the current management arrangement that exists, one Board of Trustees with overlapping members cannot govern both FTCMS and the entity that provides FTCMS's management functions. Governance through one board, with the same board members making the decisions for both the management company and FTCMS, does not permit or ensure FTCMS's independence, particularly where there are no performance standards outlined in the management contract. As noted by the Commonwealth Court in a decision issued in May, 2017, "[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities." *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, 162 A.3d 591, 598 (Pa.Cmwlt. 2017).

Under these circumstances, there are no means through which FTCMS could make decisions independently from the management company(ies), including the decision to terminate the various agreements or to address disputes over the services being provided by FTCHS. Similarly, if disputes were to arise regarding Building 215, there would be no arms-length relationships to address those concerns. FTCHS receives a financial benefit from the management agreement and the proposed lease.

Additionally, the arrangement of having the same boards govern the two charter schools, which are separate Pennsylvania nonprofit corporations, raises concerns under the Pennsylvania Nonprofit Corporations Law of 1988, as amended. Since all but one of the Board members would be considered "interested" trustees when considering a management agreement, lease or other agreement between the two charter schools, it would be impossible for the management agreement, lease or other agreement to be approved by a majority of "disinterested" trustees on behalf of each charter school. *See* 15 Pa.C.S.A. § 5728.

These same issues were presented to FTCHS and FTCES when FTCES applied for an amendment during the 2016-2017 school year to add the middle school grades. The SRC denied the amendment request, in part, due to similar governance problems that exist between FTCHS and FTCES. Those concerns have not been properly rectified by FTCHS.

The Bylaws further indicate that FTCMS's Board will have an Executive Committee, which will take on functions of the Board as a whole. The CEO of the management company will also serve on the Executive Committee, but the Charter School's school leader will not. The Charter School's Board is statutorily required to hold the powers described in 24 P.S. § 17-1716-A; committees established by the Board do not hold such powers. The documents submitted with the Application did not provide evidence that the Board as a whole would maintain all of the powers set forth in Section 1716-A. The Executive Committee and these other committees appear to be able to make decisions without subsequent ratification by the Board as a whole in violation of the CSL.

For all of the reasons set forth in the section above, the SRC finds the proposed governance structure violates the CSL. FTCMS should not be permitted to open while such problems continue to exist.

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. The submission of curriculum 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.

Various curriculum concerns raised by the Application are outlined in the factual findings above. No curriculum materials for the Spanish courses to be offered to all students in year 1 were supplied by the Applicant. Evaluators noted several gaps in alignment with the PA Core standards in various areas. Unit plans were not provided for math, physical education/health and technology. Specific unit goals, objectives, assessments, instructional materials and resources were not identified for any subject area except English Language Arts ("ELA").

The SRC also finds that the Applicant did not provide sufficient information related to the system of screening and interventions that it would put in place to meet the requirements of 22 Pa. Code § 711.23, or how it will address the challenges of a stand-alone middle school that would be enrolling a significant number of students with achievement gaps and social-emotional issues.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents that meet the standards set by the CSL and CAB. The curricular documents submitted do not evidence that the Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4.

English Learners

Charter schools are required to "provide a program for each student whose dominate 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. Prior to the submission of the 2017 Application, on July 1, 2017, the Pennsylvania Department of Education reviewed and re-issued its Basic Education Circular (“BEC”) on *Educating English Learners (ELs)* pursuant to 22 Pa. Code § 4.26. The BEC on *Educating English Learners* states in pertinent part:

The purpose of this circular is to provide local education agencies (LEAS) with the requirements and interpretations of the legal mandates governing the education of students who are English learners (ELs). The information included should be used in designing, staffing, and evaluating effective programs for ELS. These mandates and interpretations are based on the Pennsylvania Regulations, Chapters 4 and 11; and on federal law, including Title VI of the Civil Rights Act, the Equal Educational Opportunity Act (EEOA), the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), and regulations and case law under those statutes.

BEC at 1.

ESSA was signed into law on December 10, 2015, and replaced NCLB. The ESSA requirements pertaining to ELs took effect on July 1, 2017, also prior to the submission of the Application. Despite these changes in the law, the Applicant chose to file the Application without taking steps to adjust its English Language Learners Policy to reflect the changes in the law. The Application does not contain any references to ESSA or the revised BEC. Nor does the Application address the updated standards set forth in ESSA or the revised BEC for the education of ELs.

Not only is the program planning in violation of applicable laws, but the Applicant’s staffing to serve ELs is also deficient. Not a single ESL teacher is identified in the staffing plan, even though the Charter School intends to be a city-wide admission schools and the even though the School District’s average incidence of ELs is 10%.

Given the significant percentage of ELs in the targeted student population, these concerns are additional deficiencies in the Applicant's planning because they evidence a lack of preparedness or awareness of staffing and programming necessary to provide required English language instruction to ELs. These deficiencies also reflect concerns that have been raised by the CSO related to the programming in place in Franklin Towne's existing schools to serve the few EL students enrolled.

Financial Planning

An item that must be addressed in an 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 Docket 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 Docket No. 2009-04, at 12; *Voyager Charter School*, CAB Docket No. 2005-09. The budget must be complete, and must clearly identify a plan to address start-up expenses and the source of such funds. *New Castle Arts Academy Charter School v. New Castle Area School District*, CAB Docket No. 2014-14. 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 Docket No. 2003-3.

The budgetary information supplied as part of the Application raises serious concerns about the Applicant's anticipated expenditures to serve the needs of special education students. The Applicant will receive over \$27,000 per special education student, which will amount to at least \$1.5 million in year 1 if enrollment projections are met. However, the Applicant does not intend

to utilize the additional funds that it will receive for the benefit of special education students, given the fact that budgeted special education staffing expenditures (for related services, special education teachers, special education coordinator and school psychologist) amount to only approximately \$625,000. The CSO calculated related services to be anticipated at a rate of less than \$600 per student, which is woefully inadequate and not reflective of the additional funds that charter schools receive to provide services to this special education population.

In addition, the budget does not contain expenditures for various basic services that will either need to be provided or that have been represented in the Application such as substitute services, extracurricular activities and summer school offerings. Moreover, the budget does not reflect the principal payments that must be paid on the loan amortization for the \$3.5 million renovation project. All of these budgetary deficiencies are indicative of problems in the Applicant's financial planning and the Applicant's ability to provide a comprehensive learning experience.

C. 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 SRC 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 concerns are discussed in Section B 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum and programming to EL students in Part B above. The SRC reiterates herein that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4.

3. 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 professional development ("PD") plan that addressed how the Charter School will provide initial and ongoing training to teachers and other staff on the mission of the school and the proposed educational programming and practices of the school. No detail was provided about who would provide such PD; the resources that would be used; or the knowledge and skills that would be addressed in order to implement the programming described in the Application. 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. While the narrative identified several areas that would be addressed through PD, the Applicant never provided a plan or calendar showing when such opportunities would occur and the specific details about the programming that would be provided or to 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 PD 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 SRC has reviewed the totality of materials submitted by the Applicant, the evaluation documents provided by the CSO and the other documents noted in the record above. Because of the deficiencies noted in the Sections above, the SRC must conclude that the Applicant is not prepared to serve as a model for other public schools in those areas where deficiencies are noted.

In its Concluding Document (FTCMS 1399-1404), the Applicant suggests that the CSO has not provided sufficient information to ascertain what would be satisfactory in a charter application. Such a statement ignores the substantial history that FTCHS has had with the SRC in the Franklin Towne schools' attempts to expand since the 2014-2015 school year. The Applicant admits on FTCMS 1399 that FTCHS applied for a new charter for FTCMS in 2014, and that the application was denied in 2015. In the 2016-2017 school year, FTCHS applied for an amendment to the FTCHS charter, which was also denied. Conspicuously missing from the Applicant's discussion in the Application or the Concluding Document is any recognition that the SRC provided guidance to FTCHS and FTCHS in both denial adjudications about the specific concerns regarding, *inter alia*, the governance concerns.

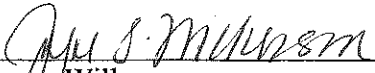
The SRC has given the Applicant a roadmap to fix the concerns addressed herein, and the Applicant has chosen to ignore those issues. As such, it is the SRC's conclusion that FTCMS cannot and would not serve as a model for other public schools.

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ORDER

For the reasons set forth above, the 2017 Application to create the Franklin Towne Charter Middle 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).



Joyce Wilkerson
Chair

APPENDIX A

RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for Franklin Towne Charter Middle School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 22, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with Grades 6-8 starting in the 2019-2020 school year with a maximum enrollment of 450 students in the final year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

RESOLUTION

WHEREAS, on or about November 15, 2014, the applicant for Franklin Towne Charter Middle School ("Applicant") submitted an application to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school;

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school with grades 5-8 starting in the 2015-2016 school year with a maximum enrollment of 600 students in the final year of the charter;

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: FRANKLIN TOWNE CHARTER MIDDLE SCHOOL
2014 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the Application filed with The School District of Philadelphia ("School District") by the applicants for the Franklin Towne Charter Middle School ("Applicant" or "Charter School" or "FTCMS"). For the reasons that follow, the Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.

2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹

3. On or about November 9, 2014, the Applicant filed an Application ("Application") with the School District. (FTCMS 1-756).²

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "FTCMS."

4. The School District received forty (40) charter school applications on or before November 15, 2014.

5. The SRC appointed a Hearing Officer to preside at the hearings to be held on all 40 charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

6. Two public hearings were held on the Application, the first occurring on December 12, 2014, and the second occurring on January 5, 2015. The public hearings were each stenographically recorded.³

7. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:

- a. The Application including all submitted attachments (FTCMS 1-756);
- b. A Powerpoint presentation submitted by the Applicant at the first hearing marked as FTCMS #1 (FTCMS 757-770);

³ The Notes of Testimony from the two hearings will be referred to as "12/12/14 N.T. 95-104" and "1/5/15 N.T. 1-57", respectively.

- c. Enrollment applications submitted by Applicant with the Application (FTCMS 771-3025);
- d. The Evaluation Report issued by the School District, which was marked as School District of Philadelphia Exhibit No. 1 (FTCMS 3026-3038);
- e. The concluding document filed by the Applicant (FTCMS 3039-3046); and
- f. Transcripts from the December 12, 2014, and January 5, 2015, hearings.

8. Supplemental materials in support of the Application were permitted to be submitted by the Applicant to the SRC by no later than the first hearing date. Any materials received by that date were included in the record.

9. The Hearing Officer permitted the Applicant to file a concluding document, but advised the Applicant that new or revised information or materials should not be submitted with the concluding document in light of the deadline previously established by the Hearing Officer. (12/12/14 N.T. 8).

General Information

10. The name of the proposed charter school is the Franklin Towne Charter Middle School. (*See e.g.* FTCMS 1).

11. The “model or focus” of the proposed school are two related charter schools operating within the District: (1) Franklin Towne Charter High School (“FTCHS”), and (2) Franklin Towne Charter Elementary School (“FTCES”). (FTCMS 1).

12. The Application was filed by FTCHS. (*Id.*).

13. The Charter School seeks a five-year charter for the school years 2015-2016 through 2019-20. (FTCMS 2).

14. FTCMS plans to open in Year 1 with grades 5 through 8 and 400 students, and then in Year 2 it will add 200 students and retain the same grades. (FTCMS 2).

15. FTCMS plans to locate at the Frankford Arsenal in a school building that already houses FTCHS. (FTCMS 1). The property is located in 19137, which is not one of the priority zip codes identified by the School District. (FTCMS 752).

Curriculum and Educational Program

16. The mission of FTCMS is "to establish a happy and nurturing environment that both promotes and cultivates a positive learning experience for our children. By involving staff, students, and parents we plan to create a challenging and supportive school where our students can learn and grow." (FTCMS 5).

17. The "curriculum" and educational program for the proposed Charter School are described on FTCMS 81-344.

18. The School District evaluated the Application and provided a review of their findings and concerns to the SRC at the January 5, 2015, hearing. (1/5/15 N.T. 5-20). The School District's findings, which are found to be credible and supported by the record, are incorporated herein and are highlighted here in part:

a. "No clear and cohesive, locally developed curriculum has been submitted. For example, only information from the commercial publishers of various resource materials were provided. The Applicant indicates [at FTCMS 21] that the curriculum has not yet been developed."

b. "In terms of academic goals, the proposed school plan does not provide information on how the school will monitor the achievement gap."

c. "The data plan lacks specificity. For the principal's quarterly data review, [it is] not clear what data will be collected, by whom, and when."

19. The Applicant did not provide an ESL curriculum.

Community Support

20. No pre-enrollment forms were submitted for FTCMS.
21. No letters of support, petitions or other indicia of support were submitted.
22. No community partnerships were mentioned other than the Bridesburg Boys and Girls Club (*see e.g.*, FTCMS 31, 56), but no letter or other indication of support from BBGC was provided.
23. No one spoke in support of the Applicant at the first hearing.
24. No written public comments in support of the Applicant were received.
25. Applicant relies on an alleged wait list of over 2,400 students in grades 5 through 8 at FTCES. As evidence, Applicant submitted over 2,200 pages of applications for enrollment filed with FTCES.
- a. Those applications were not filed for FTCMS.
 - b. The majority of the applications are not for the 2015-16 school year, and some go back to the 2009-2010 school year. It appears the Applicant submitted the applications as long as the student would be in grades 5 through 8 by the time of the 15-16 school year (based on the grade level they were applying for at the time of application). Some of the applications, however, are for 8th grade in the 14-15 school year, which means the student would not be grade eligible for the new school for 15-16.
 - c. There is no way of knowing whether any of these students have been enrolled to FTCES already; whether they are still interested in enrollment at FTCES; whether

they would be interested in enrollment at FTCMS and the grade structure at FTCMS; whether they are on the waiting lists of other charter schools, etc.

Facility

26. The Application indicates that a temporary facility would need to be procured for Year 1 while renovations take place at the facility located at the Frankford Arsenal (FTCMS 71-72), but no temporary facility was identified in the Application. At the second hearing, the Applicant indicated that in Year 1, grade 5 would be housed in the FTCES location, and grades 6 through 8 would be located in the existing FTCHS location. (1/5/15 N.T. 41-42). No lease arrangements have been discussed with the other two charter schools, however. (*Id.* at 42-43).

27. Applicant represented it would need to finance the acquisition and renovation of the Arsenal property through financing or a bond issuance, but no lending documentation was included in the Application. (*Id.* at 45).

Financial Planning

28. The budget relies upon a 3% annual increase in per pupil allocation from the School District, which is not realistic or consistent with recent historical trends. (FTCMS 544).

29. The PSERS rate in the budget remains static throughout the five year period of the budget (FTCMS 545), which is not accurate.

30. No start up budget or plan was provided, and there is no debt service in the budget.

31. The Applicant does not know whether money would be owed to the management company to cover start-up costs, and those types of issues are not addressed in the management contract. (1/5/15 N.T. 47-48).

32. The Applicant further indicated that they would rely on the good-will of existing vendors to purchase equipment and supplies without a line of credit or other debt, but no information from any vendor indicating their willingness to do so was provided. (*Id.* at 46).

33. The Staffing List and budget do not match up in terms of the instructional staff. The Staffing List indicates that 16 classroom teachers, 5 specials teachers, 3 special education teachers would be hired in Year 1. (FTCMS 367). However, none of the 5 indicated specials teachers are included in the budget. (FTCMS 545). In addition, no ESL teacher is mentioned in either document. (FTCMS 367, 545).

Governance Issues

34. Applicant states that FTCHS will manage the school. A management contract between FTCHS and the FTCMS was submitted (although it has the name "FTCES" at the top and on the signature line). (FTCMS 395-407). The management fees to be paid were not identified in the contract.

35. The Bylaws provided and the Application make inconsistent statements about who will employ the CEO, and the grade structure of the school. (*See* FTCMS 2, 522, 528-29; 1/5/15 N.T. 32-33).

36. The Bylaws also reference an Executive Committee but do not identify its function, and the Applicant did not clearly testify as to whether an Executive Committee is functioning at the two existing schools even though the Bylaws provide for one.

37. No Articles of Incorporation for FTCMS were submitted, and the school admitted they have not yet been prepared or filed.

38. Membership of the boards among the three related entities—FTCHS, FTCES, and FTCMS—is the same (with the exception of non-voting parent members), even though FTCHS will be serving in a management role. (1/5/15 N.T. 31).

39. Omnivest will perform back office operational support for the school (FTCMS 51-52), but it is not clear who from Omnivest will provide that support.

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 Application submitted for the Charter School will be examined.

III. Analysis Under the CSL

A. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate "sustainable support for the charter school plan by teachers, parents, other community members and students" within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). "Sustainable support" has been defined by CAB as "support sufficient to sustain and maintain a proposed charter school as an ongoing entity." *Bear Creek Community Charter School*, CAB No. 2003-3; *Ronald Brown Charter School*, CAB No. 1999-1. Sustainable support is "an inherent variable based upon the size of the proposed school, the size of the community and other factors." *Environmental Charter School*, CAB No. 1999-4. Sustainable support is measured in the aggregate and not by individual categories. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa.Cmwlth. 2003). The appropriate measurement for sustainable

support is against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB No. 2004-2, at 6-7.

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB No. 2000-14. The support documents, including petitions, must clearly identify that the signers or supporters are school district residents to be considered as evidence of sustainable support. *Dr. Lorraine K. Monroe Academy Charter School*, CAB No. 2000-16.

In addition to the aforementioned concepts, charter schools are mandated to develop and implement strategies for meaningful parent and community involvement. 24 P.S. § 17-1715-A(2). Section 1719-A(8) requires applications to contain, among other things: “[i]nformation on the manner in which community groups will be involved in the charter school planning process.” 24 P.S. § 17-1719-A(8). Whether or not an applicant has developed any community partnerships as of the time of the application is a valid consideration relating to its community support. *Duquesne Charter School Founding Group d/b/a/ Duquesne Charter School v. Duquesne City School District*, CAB No. 2013-01, at 8, n.1 (hereinafter referenced as “Duquesne Charter School”).

The Applicant raises its waiting list and applications to a different charter school, FTCS, as evidence of sustainability. The SRC disagrees. Reliance on waiting lists for different legal entities is misplaced and improper for several reasons. Children who reside within the School District may be on many different waiting lists for charter schools throughout the City. Waiting lists may be old and outdated, in that the students who are on them may have already been accepted elsewhere or may be attending a school that is of their liking. The SRC does not know why any given parent desires to place their child on a waiting list for a particular school; each parent’s reasons are unique.

In addition, the applications given to show community support were not filed for FTCMS. Moreover, the majority of the applications given are not for the 2015-16 school year, and some go back to the 2009-2010 school year. It appears the Applicant submitted the applications as long as the student would be in grades 5 through 8 by the time of the 15-16 school year (based on the grade level they were applying for at the time of application). Some of the applications, however, are for 8th grade in the 14-15 school year, which means the student would not be grade eligible for the new school for 15-16.

There is no way of knowing whether any of these students have been enrolled to FTCES already; whether they are still interested in enrollment at FTCES; whether they would be interested in enrollment at FTCMS and the grade structure at FTCMS; whether they are on the waiting lists of other charter schools, etc. For these reasons, the SRC will not rely on waiting lists at one charter school to justify community support for another proposed school.

Reviewing all of the submitted evidence of community support in the aggregate, the applicant has not met its burden of showing sustainable support for the proposed school. General support for the charter school concept is not sufficient to demonstrate sustainable support. *Shenango Valley Regional Charter School*, CAB No. 1999-11; *Legacy Charter School*, CAB No. 2000-14. The Charter School intends to enroll 400 students in its first year of operation, and it provided no letters of support; no supporting petitions; no pre-enrollment forms; and no other indicia of support. No community partnerships were mentioned other than the Bridesburg Boys and Girls Club, but no letter or other indication of support from BBGC was provided. The SRC finds that there is insufficient support for the Charter School's intended enrollment of 400 students in year one and for the overall charter school plan set forth in the Application as required by Section 1717-A(e)(2)(i) of the CSL.

B. 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 review of the Application establishes that the Applicant has not demonstrated, based upon its support and planning, the capability of providing a comprehensive learning experience to students.

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 between the applicant and any proposed management company. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 407-408 (Pa.Cmwlth. 2003).

The Commonwealth Court has determined that, where a charter school proposes to use a management company, the SRC cannot grant a charter without the applicant submitting the finalized and executed management agreement for the SRC to review. *School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045, 1050 (Pa.Cmwlth. 2001).

Because proper review of a charter application cannot be had until the essential components of the application, such as a management agreement, are before the Board, the Board cannot grant a charter based on a ‘model’ agreement or promises that after negotiations it will comply with the law. Otherwise, the Board could grant a charter on the basis of a ‘model’ agreement that may be in conformity with the law while the actual agreement that is executed is not.

Id.; see also *Learning Connection Charter School*, CAB No. 2001-1. The management agreement submitted is not only unsigned, it is incomplete, with important provisions (namely, the calculation of the fee to be paid) still remaining to be included. The agreement does not include provisions akin to those that PDE determined in *Insight Cyber Charter School* (decided January 2015) are required, such as academic performance requirements and the right to terminate the contract without cause. The Applicant's failure to submit a finalized and executed management agreement containing the provisions required by law is a deficiency in the Application.

FTCMS also did not provide Articles of Incorporation. It provided only Bylaws. This is a deficiency in the Application. See *The William Bailey Cyber Charter School*, at 7 (1/15/15 decision signed by Carolyn C. Dumaresq, Acting Secretary of Education).

The Bylaws provided and the Application make inconsistent statements about who will employ the CEO, and the grade structure of the school. The Bylaws also reference an Executive Committee but do not identify its function, and the Applicant did not clearly testify as to whether an Executive Committee is functioning at the two existing schools even though the Bylaws provide for one. It is unclear to the SRC why an Executive Committee would be needed to govern the operations of the Charter School, particularly when the CSL does not provide for the creation of such a committee in its traditional corporate sense. The Charter School's Board is statutorily required to hold the powers described in 24 P.S. § 17-1716-A, not a committee(s) established by the Board. Information provided in the Applications provides evidence that the Board as a whole would maintain all of the powers set forth in Section 1716-A. The role of the Executive Committee was also unclear in terms of whether its decisions would be ratified by the Board as a whole and whether it would be meet in accordance with the Sunshine Act.

Membership of the boards among the three related entities—FTCHS, FTCES, and FTCMS—is the same (with the exception of non-voting parent members), even though FTCHS will be serving in a management role. While arguably permissible in certain situations under laws dealing with non-public, non-profit corporations, such common board membership is not consistent with the requirements of the CSL and *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), which require the independence of the public, taxpayer-funded charter school's operations from the operations and desires of the management company. Through the current charter school application process, the SRC has reviewed many examples of proposed common board membership, some involving only one or a few members in common, some involving all but one of the members being common, and some involving scenarios where all of the members are proposed to be common. Without any indication in the CSL or in case law that any common board membership between a charter school and its management company is appropriate, the SRC takes the position that none of the board members for a charter school can serve on the board of its management company. Any other outcome creates a situation where common members could exert significant influence and pressure on non-common members, which results in the management company retaining the ultimate control over the school. Many, if not all, of the non-common board members may be parents of students attending the charter school, who may or may not come into board membership with any qualifications or experience and who may be placed in the position of having to address—or even terminate—the services of the management company. Parents or not, the few non-common members who remain to make the significant operational decisions that may affect the overall structure of the charter school may be left to do so without the input of other professionals (on or off the board) and without real choices for the charter school. Simple recusal by common board members does not solve the real problem

here, which is ensuring independence of the charter school from the management company. For these reasons, the SRC finds that failure to have separate membership on the boards of the Charter School and the management company is a deficiency in the Application.

Omnivest will perform back office operational support for the school, but it is not clear who from Omnivest will provide that support. These are additional deficiencies in the Application.

Curriculum and Educational Program

The proposed curriculum for a charter school must, among other things, 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. The curricular materials 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). The charter school’s failure to provide a sufficient curricular plan is a basis for denial of an application, as that 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.

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.

PDE has interpreted the CSL requirements (with respect to cyber charter school applications) as requiring: (1) curriculum maps to be provided delineating the curriculum to be offered at every grade level and in every subject area and showing how it meets the requirements of Chapter 4; and (2) the articulation of how planned instruction aligned with academic standards would be provided in the areas of assessment and resources. See e.g., *V3 Academy Cyber Charter School*, at 6 (1/28/11 decision signed by Carolyn Dumaresq, Deputy Secretary, Office of Elementary & Secondary Education); *Mercury Online Charter School of PA*, p. 6; *Urban Cyber Charter School*, at 8 (both of which are 1/28/13 decisions signed by Ronald J. Tomalis, Secretary of the Pennsylvania Department of Education).

The School District evaluated the Application and concluded:

- a. “No clear and cohesive, locally developed curriculum has been submitted. For example, only information from the commercial publishers of various resource materials were provided. The Applicant indicates [at FTCMS 21] that the curriculum has not yet been developed.”
- b. “In terms of academic goals, the proposed school plan does not provide information on how the school will monitor the achievement gap.”
- c. “The data plan lacks specificity. For the principal’s quarterly data review, [it is] not clear what data will be collected, by whom, and when.”

In addition, the Applicant did not provide an ESL curriculum.

The curricular and educational program description provided in the Application is akin to the limited information provided in the *Duquesne Charter School* case, wherein CAB denied the application. In that case, the applicant addressed its proposed curriculum and educational program in approximately 10 pages within the application and in some addenda attached to the application. Only lists of proposed classes were provided, with no further explanation of the content of each course or references to alignment of those courses to Pennsylvania standards in each of the grade levels to be offered. *Id.* at 11-12. CAB ultimately determined that the “lack of a concrete curriculum plan” supported the denial of the charter application. *Id.* at 11, n. 2. *Cf. Propel Charter School – Hazelwood v. Pittsburgh School District*, CAB No. 2013-02, at 7 (10/18/13) (CAB granted charter application, finding the several thousand pages of comprehensive curricular documents for the Charter School demonstrated alignment with the state standards and significant support and planning).

All of these observations cause the SRC 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. The curricular documents submitted do not evidence that the Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4. *See Bear Creek Community Charter School*, CAB No. 2003-3; *Environmental Charter School*, CAB No. 1999-14 (denial of application upheld where the proposed curriculum does not show either the planning or the specificity that would assure students would receive a comprehensive learning experience).

ESL

Charter schools are required to “provide a program for each student whose dominate 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, *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.

Evidence of a written Language Instruction Program was missing from the Application, and the Application did not provide a comprehensive plan for serving ELL students, as required under Chapter 4. In addition, on their face, the budget documents do not provide for the hiring of an ESL teacher. *See e.g., Insight PA Cyber Charter School*, at 7 (1/28/13 decision signed by Ronald J. Tomalis); *MB Resiliency Cyber Charter School of PA*, at 9; *Urban Cyber Charter School*, at 9 (types of deficiencies found where the Secretary determined that the applicant failed to provide sufficient evidence of an ESL program). These concerns are additional deficiencies in the Charter School’s planning.

Financial Planning

The budget relies upon a 3% annual increase in per pupil allocation from the School District. This is not a realistic annual increase.

The PSERS rate in the budget remains static throughout the five year period of the budget, which is not accurate; the rate increases annually.

No start up budget or plan was provided, and there is no debt service in the budget. The Applicant does not know whether money would be owed to the management company to cover start-up costs. The Applicant stated they would rely on the good-will of existing vendors to purchase equipment and supplies without a line of credit or other debt, but it did not provide any information from any vendor indicating the vendor's willingness to do so.

A significant problem in the budget is inadequate staffing to implement the programs described in the Application, given the lack of specials teachers budgeted. Those missing positions alone would eat up more than the entire fund balance forecasted for the end of Year 1. In light of these deficiencies in the budget the denial of the Application is warranted.

School Facilities

The Application indicates that a temporary facility would need to be obtained for Year 1 while renovations take place at the facility located at the Frankford Arsenal, but no temporary facility was identified in the Application. At the hearing, the Applicant indicated that in Year 1, grade 5 would be housed in the FTCHS location, and grades 6 through 8 would be located in the existing FTCHS location, but it also acknowledged that no lease arrangements have been discussed with either of the other two charter schools.

Applicant represented it would need to finance the acquisition and renovation of the Arsenal property through financing or a bond issuance, but it included no lending documentation in the Application. The SRC cautions applicants against incurring bond or any other type of long-term debt for periods longer than an approved charter. As stated by CAB, it is fiscally irresponsible of a charter school to carry debt for a term longer than its proposed charter term. *Renaissance Academy of Pittsburgh Alternative of Hope ("RAPAH") Charter School*, CAB No. 2007-03, at 15. While the School District does not have the ability to control all of the details of a charter school's

borrowing practices, such matters could prove to be problematic for a charter school's future fiscal management and could also be a ground for revocation or non-renewal, pursuant to the precedent established by CAB in *RAPAH*.

These are deficiencies in the Application.

C. 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 SRC believes that the Applicant has failed to properly include 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 violates the law in many respects, as discussed more fully 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum, goals and programming in part B 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 And The Provisions That Will Be Made For Auditing The School Under Section 437.

As explained more fully above, the financial plan submitted by the Charter School is deficient.

4. Section 1719-A(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.

As explained more fully above, FTCMS failed to disclose the lease arrangements for the property or how the operations of the entity would be separated from the other educational programs operated out of the intended facilities. As such, the Charter School has failed to comply with 24 P.S. § 17-1719-A(11).

5. Section 1719-A(13) -- A Professional Development Plan for the Faculty of the Charter School

The Charter School Law requires charter school applicants to address in their applications, among other things, “the proposed faculty and a professional development plan for the faculty of a charter school.” 24 P.S. § 17-1719-A. While the Applicant generally referenced having professional development for its staff (*see e.g.*, FTCMS 5, 7, 13), it did not provide a detailed professional development plan or specific description of how teachers’ skills might be improved to meet all students’ needs. (FTCMS 3031). This is a deficiency in the Application.

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

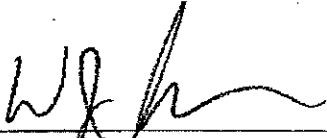
Pursuant to Section 1717-A(e)(2)(iv) of the CSL, the School District must evaluate the Charter School’s Application with regard to the “extent to which it will serve as a model for other public schools.” 24 P.S. § 17-1717-A(e)(2)(iv). Upon examination and evaluation of the deficiencies in the Application identified above, the SRC concludes that the Charter School does not yet have the capacity to serve as a model for other public schools.

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ORDER

For the reasons set forth above, the Application to create the Franklin Towne Charter Middle 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).



William J. Green
Chairman

APPENDIX B

SRC-9
June 15, 2017

RESOLUTION

Re: Franklin Towne Charter Elementary School; Material Charter
Amendment – Increase Authorized Enrollment and Additional Location

WHEREAS, pursuant to the Charter School Law, 24 P.S. § 17-1701-A, *et seq.*, the School Reform Commission (“SRC”) of The School District of Philadelphia (“School District”) granted a charter (“Charter”) to Franklin Towne Charter Elementary School (“Charter School” or “Franklin Towne CES”) to operate a public charter school for a period of three years commencing in 2009; and

WHEREAS, the SRC renewed the Charter School's Charter for a five-year term in 2012; and

WHEREAS, the Charter School received a comprehensive renewal evaluation by the Charter Schools Office (“CSO”) during the 2016-2017 school year, the fifth and final year of the current charter term for the Charter School; and

WHEREAS, under the terms of the Charter School's current Charter, the Charter School is authorized to enroll 900 students in Kindergarten through Grade 8 and operate at 4529 Richmond Street, Philadelphia, PA 19137; and

WHEREAS, in the renewal application submitted in August 2016, the Charter School indicated to the CSO that commencing in school year 2017-2018, the Charter School proposed to increase the number of students by 375 additional seats so that its maximum authorized enrollment would be 1275 at scale and add an additional location at 2275 Bridge Street, Building 125, Philadelphia, PA 19137 (“Amendment Request”); and

WHEREAS, as of April 7, 2017, the Charter School has submitted to the CSO the required documentation for the evaluation of the Charter School's Amendment Request;
NOW BE IT

RESOLVED, that, pursuant to the representations, statements and materials contained in the Amendment Request, additional documents submitted by the Charter School to the Charter Schools Office, the Charter Schools Office's Renewal Recommendation Report, the Charter Schools Office's Charter Amendment Renewal Evaluation Addendum, the Charter, and other documents in the record, the Amendment Request is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication setting forth the reasons for its decision.

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

IN RE: FRANKLIN TOWNE CHARTER ELEMENTARY SCHOOL

AMENDMENT REQUEST

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the November 18, 2016 Amendment Request ("Amendment Request") filed with the Charter Schools Office ("CSO") of The School District of Philadelphia ("School District") by the Franklin Towne Charter Elementary School ("Charter School" or "FTCES"). For the reasons that follow, the Amendment Request is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 86 operating charter schools serving approximately 65,000 students.

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

4. The CSO assists the SRC and the School District in meeting their legislative obligations under the Charter School Law, 24 P.S. § 17-1701-A *et seq.* ("CSL"), and to promote accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. The Charter School indicated its intention to the CSO to seek renewal of its Charter in or around August 2016, and further indicated its desire to seek an amendment.

6. The CSO communicated with the Charter School to confirm their intentions with respect to the amendment request and then requested additional documentation based upon the nature of the amendment request. The documentation returned by the Charter School constitutes the formal Amendment Request, which was received on or around November 18, 2016. (FTCES 1-125).²

7. The CSO reviewed the materials submitted by the Charter School and, if necessary, requested additional documents and clarification from the Charter School in response to the Amendment Request.

8. The CSO prepared a renewal evaluation report for the Charter School and also prepared an addendum to the renewal report for the amendment. The report and addendum were made available to the SRC, the Charter School and the public in April 2017.

9. The CSO publicly presented recommendations for renewals and amendments at the May 1, 2017 SRC special meeting.

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "FTCES."

10. The SRC has reviewed and evaluated the record in this matter, which is comprised of the following documents and information:

- a. November 18, 2016 letter and accompany documents constituting the initial Amendment Request (FTCES 1-125);
- b. Various communications between the CSO and FTCES representatives responding to various questions presented by the CSO, along with additional documents submitted by the Charter School (FTCES 126-785);
- c. The CSO Renewal Recommendation Report (FTCES 786-813);
- d. The Charter Amendment Renewal Evaluation Addendum issued by the CSO (FTCES 814-826);
- e. Powerpoint from the 2017 Renewal Process Kick-Off Webinar (FTCES 827-840), also available publicly at <http://webgui.phila.k12.pa.us/uploads/9a/1h/9a1hM-OutoZLHY97aPf-yBQ/Renewal-Kick-Off-Meeting-6.9.16.pdf>;
- f. The CSO's Renewal Site Visit Guidance (FTCES 841-849), also available publicly at <http://webgui.phila.k12.pa.us/uploads/11/jd/11jdjFQnV1xiUaglx-PDfA/2016-17-RSV-Guidance-9.9.16.pdf>;
- g. The current Charter issued to FTCES (FTCES 850-899);
- h. The Charter School's Renewal Application (FTCES 900-929);
- i. Child Find Policy (FTCES 930);
- j. English Language Learners ("ELLs") Policy (FTCES 931-935);
- k. FTCES Enrollment documents (FTCES 936-945);
- l. Student Handbook for 2016-2017 (FTCES 946-990);
- m. Statements of Financial Interest (FTCES 991-1026);

- n. Management Agreement between FTCES and Franklin Towne Charter High School ("FTCHS") and amendments thereto (FTCES 1027-1041);
- o. Business Services Agreements between FTCES and Omnivest and amendments thereto (FTCES 1042-1057);
- p. Bylaws of FTCES (FTCES 1058-1074);
- q. Code of Ethics for Trustees and Officers (FTCES 1075-1083);
- r. Independent financial audit for the 2013-2014 school year (FTCES 1084-1116);
- s. Independent financial audit for the 2014-2015 school year (FTCES 1117-1149);
- t. Required Federal Reporting Measures reports for FTCES for 2013-2014, 2014-2015 and 2015-2016 (FTCES 1150-1214);
- u. Statements of Financial Interest (FTCES 1215-1226);
- v. Spreadsheet from Renewal Site Visit regarding review of enrollment files (FTCES 1227-1228);
- w. Charter Board minutes for FTCHS from the 2015-2016 school year (FTCES 1229-1244);
- x. Charter Board minutes for FTCES from the 2015-2016 school year (FTCES 1245-1256);
- y. Printouts from the Internet websites for FTCES and FTCHS regarding board composition (FTCES 1257-1260);
- z. Spreadsheet from Renewal Site Visit regarding review of discipline files (FTCES 1261-62);
- aa. Spreadsheet from Renewal Site Visit regarding review of ELL files (FTCES 1263-1265);

- bb. Independent financial audit for the 2012-2013 school year (FTCES 1265-1298);
- and
- cc. FTCES' Board minutes from the 2012-2013, 2013-2014 and 2014-2015 school years (FTCES 1299-1347).

Facts Pertinent to the Amendment Request

11. The Charter School currently serves approximately 900 students in Kindergarten through grade 8. (FTCES 817).

12. The term of FTCES's current Charter is July 1, 2012, through June 30, 2017. (FTCES 856).

13. During the 2016-2017 school year, the CSO evaluated FTCES's request for renewal of its charter by performing a comprehensive review of its performance and operations. Following that review, the CSO issued a report recommending to the SRC that FTCES's Charter be renewed with conditions because of various deficiencies identified in the CSO report. (FTCES 786-813).

14. For each charter school seeking renewal of its charter, the CSO conducts an on-site renewal site visit ("RSV") and reviews a variety of documents and data as outlined in the Renewal Report. (FTCES 787-789, 843). The on-site review includes the sampling³ of various files to determine compliance with applicable legal requirements in the areas of special education, English Language Learners ("ELLs"), enrollment, student discipline, personnel and food, health and safety. (FTCES 849).

15. The RSV for FTCES occurred on November 2, 2016.

16. The CSO's renewal evaluation of FTCES culminated with the issuance of the CSO's Renewal Recommendation Report ("Renewal Report"). (FTCES 786-813). The Renewal

³ The CSO does not ask for or review all files maintained by the school, but only a small sampling of files in each category to determine if there are compliance concerns.

Report for FTCES outlines many areas of noncompliance with applicable law and its Charter and other performance issues under 24 P.S. § 17-1729-A(a), which we find to be supported by the record as follows:

- a. The Charter School did not meet the academic growth standards set by the State in different subject areas over the course of the Charter term. For example, during the 2013-2014 school year, there was significant evidence of FTCES not meeting the Pennsylvania standard for growth in Reading/English Language Arts (“ELA”) and Grade 4 science. During the 2014-2015 school year, there was significant evidence of FTCES not meeting the Pennsylvania standard for growth in Math, Reading/ ELA and Grade 4 science. During the 2015-2016 school year, there was significant evidence of FTCES not meeting the Pennsylvania standard for growth in Grade 4 science and evidence of FTCES not meeting the growth standard in Grade 8 science. (FTCES 797).
- b. The Charter School’s child find policy is not consistent with state law. (FTCES 800) Specifically, the policy does not identify how parents can request special education services. (FTCES 930).
- c. Based upon findings from the RSV, none of the 8 reviewed files for ELLs contained notification to families of placement in English as a Second Language (“ESL”) programs. (FTCES 802; 1263-65). Issues identified in the review are not in accordance with the Basic Education Circular on Educating Students with Limited English Proficiency found at [http://www.education.pa.gov/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/PA%20Code/Educating%20Students%20with%20Limited%20English%20Proficiency%20\(LEP\)%20and%20English%20Language%20Learners%20\(ELL\).pdf](http://www.education.pa.gov/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/PA%20Code/Educating%20Students%20with%20Limited%20English%20Proficiency%20(LEP)%20and%20English%20Language%20Learners%20(ELL).pdf).

- d. Based upon findings from the RSV, at least one ELL was not provided the ACCESS for ESL progress assessment. (FTCES 802). More specifically, 3 out of the 8 ELL students whose files were reviewed were not provided the ACCESS assessment for the years in which they were enrolled in FTces. (FTCES 1263-65).
- e. The Charter School did not report a certified ESL teacher in their 2014-2015 annual report (FTCES 802), even though the Charter School reported an ELL population to the State, per the FTces fast facts data reported for 2014-2015. *See*, paschoolperformance.www.org/Downloads.
- f. FTces's enrollment application for the 2012-2013 school year requested special education status prior to a student being eligible for enrollment. FTces's enrollment application for the 2012-2013 through the 2016-2017 school years requested current school and reason for leaving as well as the release of health, discipline, attendance and academic records prior to the student being eligible for enrollment; and 12 of 20 student enrollment files reviewed by the CSO during the RSV did not include a parent registration statement. (FTCES 803, 936-945, 1227).
- g. Based upon findings from the RSV, FTces did not provide evidence of compliance with Chapter 12 for at least one expulsion. (FTCES 804). More specifically, for 3 of the 7 student files reviewed where the student was expelled, the files did not contain evidence of notification of charges being sent to the parent or guardian. (FTCES 1261).
- h. The Code of Student Conduct does not include all of the due process rights required in order to suspend or expel a student from school. (FTCES 964-966). Notably missing from the Code of Student Conduct is any reference to the requirement that parents or

guardians of students facing expulsion receive notification of charges, which corresponds to the deficiencies noted during the RSV.

- i. A total of 8 out of 39 Statements of Financial Interest were not submitted or timely submitted for all Charter Board members and administrators in the years 2012, 2014 and 2015. (FTCES 805, 922, 991-1026, 1215-1226). More specifically, SOFI were not timely submitted for the following individuals in the following years: Chris Creelman – 2012 (late); Nancy Hartey – 2012 (late); Michele Krajewski – 2012 (late); James Rogers – 2015 (late); Cynthia Mareello – 2015 (late); Eugene McAleer – 2012 (late); Joseph Garbarino – 2015 (no date). (*Id.*).
- j. FTCES and its management company, a charter school called Franklin Towne Charter High School (“FTCHS”), which operates under a separate charter, share the same Board members. FTCHS and FTCES secure each other’s long-term debt, which results in conflicts of interest as a result of sharing the same board members. (FTCES 805; 1138-39; 1105-1106, 1229-1256, 1287-1288).
- k. A board member of the Richmond Street CDC, which is FTCES’s current landlord, works for a paid vendor of the Charter School. (FTCES 813).
- l. The Charter School’s Bylaws do not address all of the actions requiring Board approval as outlined in the Charter. (FTCES 805, 883-884, 1058-1074).
- m. The Charter Board meeting minutes did not identify the location of all meetings, as required by the Sunshine Act. (FTCES 805). More specifically, the Board meeting minutes in the 2012-2013, 2013-2014, 2014-2015 and 2015-2016 school years did not identify where the Board meetings took place, such as at FTCHS’s location or at FTCES. (FTCES 1245-1256, 1299-1347).

- n. FTCES's board did not comply with the board composition requirements in its Bylaws (9 members) from July 1, 2012 until January 8, 2013, when the Bylaws were amended to change the board composition to 7-11, and the Board did not approve a budget for the 2013-2014 school year prior to June 30, 2013. (FTCES 805; 922-23; 1059; 1299-1335). The board minutes from March 19, 2013 indicate that the proposed budget for 2013-2014 was to be presented to the board for review and vote at the next meeting, but the next meeting was cancelled due to a lack of quorum. (FTCES 1309-1310). The budget for 2013-2014 was not approved anytime thereafter according to the minutes.
- o. The percentage of courses assigned with Highly Qualified Teachers ("HQT"s) was 98% in 2012-13, 92% in 2013-14, and 98% in 2014-15. (FTCES 806, 1170, 1192).

17. FTCES's Amendment Request seeks: (i) an enrollment expansion associated with the renewal of its charter for an additional five years; and (ii) a request to operate out of an additional facility located at 2275 Bridge Street. Specifically, the Charter School proposes to add 375 students in Grades 6-8 for a new maximum enrollment of 1275 students, with the entirety of the enrollment increase to occur in the 2017-2018 school year. (FTCES 4, 817).

18. The CSO evaluated the Amendment Request and provided a review of their findings and concerns to the SRC. (FTCES 814-826). The recommendation from the CSO is as follows:

The CSO recommends that the SRC deny the charter amendment request from Franklin Towne ES (sic) to increase its authorized enrollment by 375 students in Grade 6 through Grade 8 for a total maximum authorized enrollment of 1275 students in Kindergarten through Grade 8. Further, the CSO also recommends that the SRC deny the addition of the new facility at 2275 Bridge Street, Building 215, to the Charter as an approved facility. The Charter School has significant organizational and financial compliance concerns identified in the *2016-17 Charter School Renewal Recommendation Report*. Specifically, it notes the following compliance deficiencies: English Language Learner (ELL) policy and practice, student enrollment process, student Code of Conduct compliance, lack of

Board's adherence to the Sunshine Act, Ethics Act and its own bylaws, and a generally accepted financial practices concern for related parties. Additionally, the Charter School's charter amendment request did not present a staffing plan demonstrating the Charter School's preparedness to assimilate 375 new students into the Franklin Towne schools in terms of school climate and academic performance.

(FTCES 819).

19. The CSO's recommendation reflects and references the comprehensive renewal evaluation conducted for FTCES and the various issues and concerns addressed in that report, which are incorporated herein. (FTCES 818-819).

20. In addition, the CSO makes additional findings specific to the Amendment Request, which are found to be supported by the record, are incorporated herein and are highlighted here in part:

Finance and Facilities

Currently, Franklin Towne ES (sic) serves 900 students in Kindergarten through Grade 8 at 4259 Richmond Street in the Bridesburg section of Philadelphia. As indicated above, the Charter School's request for an expansion of 375 students in Grades 6 through 8 is accompanied by an additional charter amendment request that the Charter School be allowed to operate out of an additional facility, Building 215 in the Frankford Arsenal at 2275 Bridge Street. All of the 375 new students in Grades 6-8 would be educated at the Bridge Street location, while students currently enrolled for the 2016-17 school year would remain at the Richmond Street location. The Bridge Street location is approximately 1.3 miles from the Richmond Street location, although it is located approximately two blocks from FTCHS.

The Charter School submitted architectural plans and renderings for the proposed Bridge Street facility. The building was purchased by FTCHS in 2015 and includes 41,694 square feet of academic space, including 15 traditional classrooms, two smaller classrooms, three special education break-out rooms, and designated rooms for the Reading and Math Specialists. The Charter School indicates that the Reading and Math Specialist rooms could be converted into traditional classrooms if needed, and the rooms are sufficiently sized to allow for this possibility. The facility also includes a cafeteria, a nurse's office, and administrative offices. The square footage allowances are appropriate for a school of 375 students. However, the floor plan submitted by the Charter School does not include several rooms that would seem to be critical for the operation of a high

quality middle school with a STEM focus: a library, a media room or computer lab, a music room, or a science lab. This raises a significant concern that students served at the Charter School's Bridge Street site may not have access to the same educational benefits as students attending the Richmond Street site.

The Bridge Street facility also has access to a 22,000 square foot gymnasium. The gymnasium has been under construction and was substantially completed as of January 2017. Athletic fields are also available for student use outside of the building. The gymnasium is owned and used by FTCHS, but middle school students at the Franklin Towne ES (sic) Bridge Street location would also have access to the space. The Charter School did not submit a shared services agreement detailing how the gymnasium space would be shared by the two schools, or whether there would be any financial compensation to FTCHS for the use of the gymnasium space.

The Charter School indicates that the remainder of the Bridge Street building is currently in 'vanilla shell' status and that no zoning changes are needed for the facility. In terms of the timeline for the renovation project, architects and builders contracted by Franklin Towne ES (sic) expect that following an allowance of 45 to 60 days for the filing of permits and development of construction documents, the shell space can be fitted out for students in approximately 90 days. Documents provided by the Charter School indicated that the Charter School completed the schematic design phase of the project and will not proceed further until an approval for the proposed charter amendment has been obtained from the SRC. The renovation and construction phase of the project had been scheduled to take place between May 22 and August 18, 2017; as such, it is not clear that the new facility will be ready for students in time for the 2017-18 school year. The Charter School has not submitted a contingency plan either in the event that the Bridge Street facility is not ready for students or if occupancy permits have not been received, by the first day of school.

The Charter School has submitted a draft lease agreement with a rental cost of \$6 per square foot. The lease would begin on September 1, 2017 and continue through August 31, 2022, with the option for three five-year 'renewal terms'. The lease would be between FTCHS, the owner of the property, and Franklin Towne ES (sic), the tenant. The CSO has identified a related parties concern with respect to this lease arrangement, given that Franklin Towne ES (sic) and FTCHS have overlapping membership for their respective charter school Board of Directors. It is not clear who would negotiate or sign the lease on behalf of each party, and the arrangement calls into question the ability of the landlord and the tenant to meaningfully negotiate any potential concerns that may arise regarding the lease agreement, rental payment, or facility conditions. To resolve the related parties concern, which is also noted in the Franklin Towne ES (sic) renewal evaluation, the CSO would expect that each charter school establish its own independent Board of Trustees prior to the execution of any lease agreement and for the duration of such agreement, so that any business or financial transactions which

impacts both parties is independently assessed and evaluated prior to any vote by the respective Board of Trustees.

As indicated in the *2016-17 Charter School Renewal Recommendation Report*, the Charter School approached the standard for financial health and sustainability throughout the charter term. All six of the evaluative metrics used to measure the Charter School's short-term financial health and long-term financial sustainability over the four fiscal years of available data for the charter term were rated as meeting standards. However, Issues regarding related parties were identified during the audit and assessment of generally accepted financial practices of the Charter School, and the proposed plan for Franklin Towne ES (sic) to lease a facility from FTCHS only exacerbates these concerns.

(FTCES 823-24).

21. FTCES's Charter explicitly requires the Charter School to comply with the HQT requirements and the Ethics Act. (FTCES 854, 855, 863).

22. FTCES's Charter states as follows:

For each year during the five (5)-year Term of this Charter, the Charter School shall achieve AYP, the Pennsylvania Value-Added Assessment System ("PVAAS") growth measure, and the Average Growth Index ("AGI") growth measure consistent with the Pennsylvania Department of Education's Accountability System pursuant to NCLB.

(FTCES 866, 886).

23. According to statements in FTCES's renewal application, FTCHS provides management services to FTCES. The two entities share executive leadership and administrative personnel pursuant to the terms of a management agreement. (FTCES 3).

24. According to the Board meeting minutes for both FTCES and FTCHS, the same individuals sit on the FTCES and FTCHS boards. (FTCES 1229-1256).

25. The building that FTCES proposes to house the enrollment expansion in grades 6-8, known as Building 215, is owned by FTCHS, having been purchased by FTCHS in 2015. (FTCES 5).

26. FTCES will pay FTCHS (the owner) for the cost of fitting out the academic space in Building 215, which is estimated to cost \$2.1 million. (FTCES 6).

27. FTCES will lease Building 215 from FTCHS at a cost of \$6.00 per square foot, which the Lease submitted in the Renewal Application estimates as a minimum of \$20,847 per month or \$250,164 per year in the first year of the lease. (FTCES 6, 94).

28. The SOFIs completed by many of the members of the Charter Board further establish that board members serve on both FTCES and FTCHS or for the "Franklin Towne Charter Schools". (FTCES 992-1026; 1215-1226).

II. Conclusions of Law

1. The CSL does not authorize or condone the amendment of a charter once a charter is issued following the filing and consideration of a new charter school application pursuant to the requirements of 24 P.S. § 17-1717-A. *See Discovery Charter School v. School District of Philadelphia*, 111 A.3d 248, 252-53 (Pa. Cmwlth. 2015), appeal granted, 135 A.3d 581 (Pa. Apr. 26, 2016).⁴

2. The CSL does not contain any explicit procedural or substantive requirements relative to amendment requests to guide or inform the School District's consideration of amendment requests.

3. Assuming charter amendment requests are even viable under the CSL, amendment requests should be reviewed in accordance with the intent and purpose of the CSL, as outlined in 24 P.S. § 17-1702-A, and in accordance with the CSL provisions outlining the standards for authorizing charter applications and for revoking or not renewing a charter school's operations, namely those standards found in 24 P.S. §§ 17-1717-A(e), 17-1719-A and 17-1729-A(a).

⁴ The Pennsylvania Supreme Court has granted the School District's appeal in *Discovery* to decide, *inter alia*, whether "the Commonwealth Court err[ed] when it created an extra-legislative scheme for amending charters that is not contained in the [CSL]." Argument in that case has occurred and the parties await a decision from the Court. For purposes of the instant adjudication, the SRC does not concede or waive its right to contest in any subsequent appeal the availability of, or right to, an amendment process under the CSL.

4. Different amendment requests require different and unique considerations depending upon the nature of what is being sought and the effect that those changes would have on the charter school's operations.

5. The SRC and the CSO have discretion to determine what reasonable information will be sought from each Charter School seeking an amendment to its Charter, and that information is dictated by what the amendment seeks.

6. Amendment requests that seek enrollment increases to a Charter and/or that seek to add additional grade levels trigger considerations of, *inter alia*, the charter school's past academic performance with its existing populations and grades; the charter school's (or the operator's) experience in educating students at the newly proposed grade levels either at the existing charter school or in other schools run by the operator; the steps taken by the charter school, in terms of support and planning, to add those additional seats and grade levels; evidence of the sustainable support for the modification; curriculum and staffing considerations; the charter school's practices for the accommodation, admission and enrollment of students; and facility and fiscal implications. Such considerations mirror the applicable standards set forth in 24 P.S. § 17-1717-A and 17-1719-A for the review and evaluation of new charter school applications, and the standards set forth in 24 P.S. § 17-1729-A(a) for the revocation or nonrenewal of charters.

7. Amendment requests that seek facility changes to a Charter trigger considerations of, *inter alia*, the rationale for the proposed change; the charter school's fiscal experience and the fiscal implications of the change; the impact of the change on the existing student body, families and staff; staffing considerations given the proposed changes; community engagement and support regarding the change; zoning, timeline for project completion, occupancy issues and other pertinent information about the facility; and information relative to the financing of the proposed

facility such as lease or purchase arrangements. Such considerations mirror the applicable standards set forth in 24 P.S. §§ 17-1717-A and 17-1719-A for the review and evaluation of new charter school applications, and the standards set forth in 24 P.S. § 17-1729-A(a) for the revocation or nonrenewal of charters.

8. While a charter school seeking an amendment need not comply with all of the requirements set forth in 24 P.S. § 17-1719-A in terms of the type of information to be included in the amendment request and/or supplied to the SRC, the request should include sufficient information addressing the pertinent aspects of Section 1719-A in relation to what is being sought by the Charter School. *See, e.g. Montessori Regional Charter School v. Millcreek Tp. School Dist.*, 55 A.3d 196, 203 (Pa.Cmwlth. 2012) (interpreting information sought by the school district in response to the amendment request in comparison to Section 1719-A requirements).

9. In addition to the aforementioned considerations, whether the Charter School has operated as a high-performing and high-quality charter school prior to seeking the amendment request, under the standards set forth in 24 P.S. § 17-1729-A(a), is relevant to the determination of whether the request should be granted. *See, Penn Hills Charter School of Entrepreneurship v. Penn Hills School District*, CAB No. 2015-02, at 8, citing *Discovery Charter School* and *Northside Urban Pathways Charter School*, *supra*.

10. A high-performing and high-quality charter school is one that: (1) operates in accordance with applicable laws; (2) operates in accordance with its Charter and charter application; (3) consistently improves academic achievement equitably for all students and meets the Pennsylvania standards for student academic growth in accordance with Chapter 4 accountability systems; (4) consistently outperforms the schools within the School District in terms of academic achievement, as measured by the School District's average results, the average results

for the charter school sector and peer school results; (5) is fiscally sound and operates in accordance with generally accepted standards of fiscal management and audit requirements; (6) exhibits enrollment practices that are not burdensome on families or raise enrollment barrier concerns, except to the extent that the Charter permits limiting enrollment to a particular group of students; and (7) ensures that all associated individuals (board members, administrators and staff), in the performance of their duties, comply with governance standards applicable to public charter schools.

11. "Upon approval of a charter application under section 1717-A, a written charter shall be developed which shall contain the provisions of the charter application This written charter . . . shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of trustees." 24 P.S. § 17-1720-A.

12. "When a charter is granted by a local board of school directors, the charter school is required to comply with the terms and conditions of the charter, as well as the information contained in the charter school application, which is incorporated into the charter. 24 P.S. §§ 17-1720-A, 17-1729-A(a)(1)." *Truebright Science Academy Charter School v. The School District of Philadelphia and School Reform Commission*, CAB No. 2013-11, at 15 (January 8, 2015).

13. "The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter and the provisions of this article." 24 P.S. § 17-1716-A(a).

14. "The board of trustees shall determine the level of compensation and all terms and conditions of employment of the staff except as may otherwise be provided in this article." 24 P.S. § 17-1724-A(a).

15. "Trustees of a charter school shall be public officials." 24 P.S. § 17-1715-A(11).

16. "The term 'administrator' shall include the chief executive officer of a charter school and all other employees of a charter school who by virtue of their positions exercise management or operational oversight responsibilities. A person who serves as an administrator for a charter school shall be a public official under 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure)." 24 P.S. § 17-1715-A(12).

17. The Public Officials and Employees Ethics Law ("Ethics Act"), 65 Pa.C.S. § 1101, *et seq.*, requires public officials to file statements of financial interest by May 1 of each year. Trustees of a charter school are required to file statements of financial interest. *Renewal Application of the Lincoln Charter School*, CAB 2005-3; *Thurgood Marshall Academy Charter School*, CAB 2001-5, p. 16.

18. "Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this chapter shall be liberally construed to promote complete financial disclosure as specified in this chapter." 65 Pa.C.S. § 1101.1(a).

19. "No public official is permitted to continue his/her duties unless and until the statement has been filed. 65 Pa.C.S. § 1104(d)." *Thurgood Marshall*, CAB 2001-5, p. 16.

20. In the Statement of Financial Interest, the public official must disclose, *inter alia*, "[a]ny office, directorship or employment of any nature whatsoever in any business entity." 65 Pa.C.S. § 1105(b)(8).

21. Failure to file statements of financial interests is a proper basis for non-renewal of a charter. *Renaissance Charter School*, CAB 2008-07, pp. 13-14.

22. "No public official or public employee shall engage in conduct that constitutes a conflict of interest." 65 Pa.C.S. § 1103(a).

23. A "conflict of interest" is defined by the Ethics Act as "[u]se by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated" 65 Pa.C.S. § 1102.

24. "No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated . . . unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract." 65 Pa.C.S. § 1103(f).

25. "The board of trustees [of a charter school] shall comply with the act of July 3, 1986 (P.L. 388, No. 84), known as the 'Sunshine Act.'" 24 P.S. § 17-1716-A(c).

26. "The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decision making of agencies is vital to the enhancement and proper functioning of the democratic process and that

secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society." 65 Pa. C.S. § 702(a).

27. "Official action and deliberations by a quorum of the members of any agency shall take place at a meeting open to the public unless closed under section 707 (relating to exceptions to open meetings), 708 (relating to executive sessions) or 712 (relating to General Assembly meetings covered)." 65 Pa. C.S. § 704.

28. "In all meetings of agencies, the vote of each member who actually votes on any resolution, rule, order, regulation, ordinance or setting of official policy must be publicly cast and, in the case of roll call votes, recorded." 65 Pa. C.S. § 705.

29. The Sunshine Act also provides as follows:

Written minutes shall be kept of all open meetings of agencies. The minutes shall include:

- (1) The date, time and place of the meeting.
- (2) The names of members present.
- (3) The substance of all official actions and a record by individual member of the roll call votes taken.
- (4) The names of all citizens who appeared officially and the subject of their testimony.

65 Pa. C.S. § 706.

30. "[A] majority vote of the entire governing board is required to expel a student." 22 Pa. Code § 12.8(b). Chapter 12 applies to charter schools. 24 P.S. § 17-1732-A(a).

31. For any student facing expulsion, prior to the formal hearing before the governing board, "[n]otification of the charges shall be sent to the student's parents or guardians by certified mail." 22 Pa. Code § 12.8(b)(1).

32. A charter school's "written child find policy must include: (1) [p]ublic awareness activities sufficient to inform parents of children applying to or enrolled in the charter school . . .

of available special education services and programs and how to request those services and programs . . .” 22 Pa. Code § 711.21(b)(1).

33. “A charter school shall not discriminate in its admission policies or practices on the basis of intellectual ability . . . or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.” 24 P.S. § 17-1723-A(b)(1).

34. “A school district or charter school shall normally enroll a child the next business day, but no later than 5 business days of application. The school district or charter school has no obligation to enroll a child until the parent, guardian or other person having control or charge of the student making the application has supplied proof of the child’s age, residence, and immunizations as required by law. School districts and charter schools receiving requests for educational records from another school district or charter school shall forward the records within 10 business days of receipt of the request.” 22 Pa. Code § 11.11(b).⁵

35. All public school teachers teaching core academic subjects were required to be highly qualified by the end of the 2005-2006 school year. 20 U.S.C. § 6319(a)(2).

36. A charter school core subject area teacher, to be highly qualified, must hold a bachelor’s degree and must demonstrate competence in the core content areas in which they teach through the means permitted under the state law to do so, in addition to meeting the certification requirements under the CSL. *See* Highly Qualified Determination, Certification and Staffing Policy Guideline No. 301 (issued August 1, 2014).

37. “Every school district shall provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English

⁵ Charter schools are subject to 22 Pa. Code Ch. 11 pursuant to 24 P.S. § 17-1732-A(b).

proficiency and the academic standards 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.

38. Charter schools must provide the chartering school district with “ongoing access to the facilities and records of the charter school to ensure that the charter school is in compliance with its charter and this act and that requirements for testing, civil rights and student health and safety are being met.” 24 P.S. § 17-1728-A(a).

39. The record establishes that FTCEs’s Amendment Request should be denied because the Charter School’s operations are not in compliance with applicable law or its Charter.

III. Analysis

A. The Charter School Has Not Demonstrated Compliance With Applicable Legal Requirements or Requirements In Its Charter To Warrant The Expansion Of Enrollment. Expansion, As Proposed, Will Exacerbate The Existing Ethical And Governance Concerns.

As set forth in more detail above, the Charter School has not demonstrated consistent compliance with applicable legal requirements and with its Charter, including in the areas of compliance with ELL requirements, HQTs, student discipline and governance. FTCEs also did not meet the academic growth standards required under its Charter on multiple occasions over the term of its Charter. Because of these concerns, the SRC finds that an expansion of enrollment is not appropriate.

A. Ethical and Governance Concerns

FTCEs and FTCHS share one governing board even though FTCHS serves as the management company for FTCEs. Now, the parties are proposing that FTCHS will also serve as the landlord for FTCEs under a lease for Building 215, and FTCEs will pay FTCHS for the cost of building renovations and for the monthly rent.

Pursuant to the Pennsylvania Supreme Court's direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school may not be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school's ability to exercise its rights, including cancellation of the contract between the two entities. *Id.*

Here, the structure that has been created by FTCES and FTCHS – one board to govern both charter schools – is a clear violation of the CSL and the *Collegium* independence requirements. FTCHS is providing the core administrative management for FTCES in the form of the CEO, CAO, other central-office administrative employees and other management services in exchange for a management fee that is governed by a contractual arrangement. One Charter Board simply cannot govern both FTCES and a separate entity that provides FTCES's management functions. Governance through one board, with the same board members making the decisions for both the management company and FTCES, does not permit or ensure FTCES's independence. As noted by the Commonwealth Court in a decision issued in May, 2017, “[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities.” *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, -- A.3d --, 2017 WL 2190681 *5 (Pa.Cmwlt. May 18, 2017).

Under these circumstances, there are no means through which FTCES could make decisions independent of the management company(ies), including the decision to terminate the various agreements or to address disputes over the services being provided. Similarly, if disputes

arise regarding Building 215, there will be no arms-length relationships to address those concerns. FTCES's proposed solution to this problem is to have both FTCES and FTCHS contract with independent attorneys who would discuss and settle on a recommendation for the Charter Board, and if those two attorneys could not agree, then a third attorney would be appointed to serve as an arbitrator to come to a resolution. (FTCES 134). Notwithstanding the fact that such an arrangement is not reflected in the Lease (FTCES 91-109) or the management agreement (FTCES 1028-1041), such an arrangement would be in violation of the Rules of Professional Responsibility 1.2(a) governing attorney conduct as settlement decisions are ultimately the decision of the client. In this case, the client of both attorneys are controlled by the same individuals – the board members who sit on both FTCES and FTCHS boards. There could be no privileged communications in order to allow the client to make informed decisions required under Pennsylvania Rule of Professional Conduct 1.4 because the same individuals sit on both boards.

FTCHS receives a financial benefit from the management agreement and the proposed lease. The situation also creates conflicts of interest prohibited by the Ethics Act for the Charter Board members, as they are voting on matters for FTCES that result in a private pecuniary benefit for a business with which the board member is associated, namely FTCHS.

Additionally, the arrangement of having the same boards govern the two charter schools which are separate Pennsylvania nonprofit corporations raises concerns under the Pennsylvania Nonprofit Corporations Law of 1988, as amended. Since all of the Board members would be considered "interested" trustees when considering a management agreement, lease or other agreement between the two charter schools, it would be impossible for the management agreement, lease or other agreement to be approved by a majority of "disinterested" trustees on behalf of each charter school.

For these reasons, the SRC finds the current governance situation violates the CSL and also creates conflicts of interest prohibited by the Ethics Act that are not being properly rectified by FTCES or FTCHS. FTCES should not be permitted to expand its operations while such problems continue to exist.

B. Charter Compliance – Academic Growth.

FTCES's Charter requires the Charter School to meet the State's standards for academic growth, as measured by PVAAS and AGI, for each school year during the term of the Charter. The Charter School did not meet the Pennsylvania growth standard in certain subject areas, as articulated in more detail above, in multiple years over the term of the Charter. The failure to meet the growth standard in multiple school years is a violation of the Charter.

C. Personnel Issues – Highly Qualified Teachers.

In this case, the Charter School violated the HQT requirements set forth in federal law. All teachers teaching core academic subjects within the state were required to be highly qualified by the end of the 2005-2006 school year. 20 U.S.C. § 6319(a)(2). The Charter School's data establishes that the Charter School failed to have 100% of its core subject area teachers highly qualified in multiple school years during the Charter Term. Not only is the failure to have 100% HQT a violation of federal law, but such a shortcoming is also a violation of the Charter. As set forth in the factual findings above, the Charter School agreed in its Charter to have 100% HQT throughout the Charter Term. The Charter School did not meet that requirement.

D. Services to ELLs

The Charter School's provision of services to ELL students is not in compliance with the standards established by PDE for the provision of services to ELL students as required by Chapter 4. In terms of ELL monitoring, files were missing ACCESS results for each year since the student

enrolled. The Charter School's communications with parents of ELL students regarding identification for ESL programming is not in accordance with State requirements. And the Charter School did not provide appropriate ESL staff throughout the Charter term.

E. Admissions/Enrollment Concerns.

The Charter School's enrollment and admissions practices also are not compliant with applicable law. The law makes it crystal clear that a charter school cannot discriminate in its admissions practices and must enroll a student no later than five business days after receipt of the student's application. 24 P.S. §§ 17-1715-A(3), 17-1723-A(b)(1); 22 Pa. Code § 11.11(b). The five-day rule is mandatory as long as the child's parents/guardians have provided proof of the child's age, residence and immunizations as required by law. 22 Pa. Code § 11.11(b). There is no allowance in the law that would permit a charter school to delay enrollment until free and reduced lunch applications, IEPs or 504 plans, or other required forms are received. In fact, according to PDE's BEC on "Enrollment of Students":

**DOCUMENTS WHICH MAY BE REQUESTED BUT NOT AS A
CONDITION OF ENROLLMENT**

Items which may be requested

School districts and charter schools often seek to obtain information from families in addition to the mandatory items discussed above. Although they may ask for any of this information, they may not require it as a condition of enrolling or admitting a child and they may not delay a child's enrollment or attendance until these documents are provided.

Among the documents that a school district or charter school may request are: picture identification, health or physical examination records, academic records, attendance records, Individualized Education Program, and other special education records.

In addition, a school district may not require that a physical examination be conducted as a condition of enrollment.

* * *

DOCUMENTATION REQUIRED FROM OTHER SOURCES

A school district or charter school is also entitled by law to receive information on an enrolling student from the previous school, public, charter, nonpublic or private, which the student attended. However, the provision of this information rests with the educational entity and not the family, and so, the receiving school district *may not require this information as a precondition to enrollment and may not delay a student's admission for lack of this information.*

Student Education Records

Upon enrollment, the school district or charter school is to contact the student's former school for a copy of the student's education records. The former school district or charter school, if within this Commonwealth, is required to respond by forwarding the records within 10 business days of the date upon which a student's records are requested by another Commonwealth school district or charter school. School districts shall enroll students within 5 business days regardless of receipt of records from the previous districts. 22 Pa. Code §11.11(b).

See PDE's BEC on "Enrollment of Students," which can be found at <http://www.education.pa.gov/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/Purdons%20Statutes/Enrollment%20of%20Students.pdf> (italics in original).

Based upon the documentation received by the CSO, the Charter School is not in compliance with the law governing enrollment. Specifically, the enrollment materials provided to parents seek information that is outside the legal requirements for admission and enrollment into public schools, and those documents indicate the enrollment is conditioned upon receipt of that documentation. Specifically, the letter to parents/guardians states: "If we do not receive the required documents by the deadline of February 24, 2017, your child's name will be removed from our tentative enrollment for Fall 2017 and placed back into our lottery system." (FTCES 936).

F. Student Discipline Concerns

The Charter School has not exhibited compliance with Chapter 12. The RSV uncovered several students who were not provided with the due process protections set forth in Chapter 12,

as they were not given written notification of charges prior to being expelled. Because the Charter School's Code of Student Conduct does not inform students and their parents of their specific rights in expulsion situations, as required by 22 Pa. Code § 12.3(c), parents may not realize that they must receive such notification of charges. The failure to ensure compliance with Chapter 12 in its treatment of expelled students and in the formulation of policy are additional deficiencies in the Charter School's operations.


Each of these concerns and deficiencies about the Charter School's operations support the conclusion that the Amendment Request should be denied.

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ORDER

For the reasons set forth above, the Amendment Request filed by Franklin Towne Charter Elementary School is hereby **DENIED**.

Date: 6-15-17



Joyce S. Wilkerson
Chair

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: PHILADELPHIA HEBREW PUBLIC CHARTER SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission (“SRC”) adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia (“School District”) by the applicant for the Philadelphia Hebrew Public Charter School (“PHPCS”, “Applicant” or “Charter School”). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office (“CSO”) assists the SRC and the School District in meeting their legislative obligations under the Charter School Law (“CSL”) and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered “VI(f).” Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (PHPCS 1094).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "PHPCS."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 24, 2018. The public hearings were each stenographically recorded.³
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2NtISkJDWmQ4YXVGQk0/view.
 - b. The Application including all submitted attachments (PHPCS 1-1094);
 - c. The curriculum submitted by the Applicant, which has not been bates stamped to date;
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (PHPCS 1095-1111);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (PHPCS 1112-1129);
 - f. The concluding document filed by the Applicant (PHPCS 1130-1147);
 - g. Public comments received by the SRC during the advertised public comment period (PHPCS 1148-1170); and
 - h. Transcripts from the hearings held on December 18, 2017 and January 24, 2018.

10. Supplemental materials were not accepted following receipt of any of the new applications.

The 2017-2018 application form published by the School District specifically states on

³ The Notes of Testimony from the two hearings will be referred to as "12/18/17 N.T. ____" and "1/24/18 N.T. ____", respectively.

page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

11. The name of the entity applying for the charter is Hebrew Public (“HP”), which is the proposed management company for the school.
12. The name of the proposed charter school is the Philadelphia Hebrew Public Charter School. (*See e.g.* PHPCS 1).
13. The Charter School seeks a five-year charter for the school years 2019-2020 through 2023-2024. (PHPCS 1-2, 7).
14. The Charter School would open in year 1 with Kindergarten through grade 1 with 156 students. Thereafter, the Charter School would add grades and students, ultimately proposing to serve students in Kindergarten through 8th grade with 702 students by the 2026-2027 school year. (PHPCS 1-2, 7).
15. The proposed school address is 3300 Henry Avenue, Philadelphia, Pennsylvania 19129. (PHPCS 1, 73).
16. The Charter School would accept students from across the City of Philadelphia with the intention of being a “diverse-by-design” charter school: a school “that [is] intentionally designed to be racially and economically diverse, and to help reduce patterns of racial and economic isolation in America’s public schools.” (PHPCS 7, 7, 77).
17. The “Student Admission & Enrollment Policy” includes information and processes related to the admission of students and the lottery, but does not contain any information setting forth what information or materials will be requested from parents in order for students selected in the lottery to actually enroll in the school. The Policy simply states: “The

database will generate letters to each individual applicant indicating their status and guidance for the completion of the admissions process.” (PHPCS 392).

18. The Charter School will have a Responsive Classroom and/or Restorative Practices philosophy towards student discipline that helps “guide children toward kind, inclusive behavior”. (PHPCS 31, 59-60). However, the Code of Student Conduct (PHPCS 395-405) does not reflect or address what restorative practices might be utilized with students who are engaging in conduct that constitutes a disciplinary violation. Instead, the Code of Student Conduct contains a “standard listing of infractions and consequences”, according to the CSO. (PHPCS 1124).

Curriculum and Educational Programming Proposed for MCES

19. Students will receive four periods each week of immersive instruction in Modern Hebrew with an integration of Israeli Studies in the social studies curriculum. (PHPCS 7, 16).
20. The curriculum and educational plan for the proposed Charter School are described on PHPCS 14-20 and in the curricular documents included in Attachment 1.
21. The CSO presented an Evaluation Report of the Application at the January 24, 2018 hearing. (PHPCS 1112-1129). The following observations by the CSO regarding the curriculum and educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

While evaluating the proposed curricular components, evaluators noted that the applicant specified adopting the Modern Hebrew curriculum to be aligned with the Pennsylvania Academic Standards but merely indicated that the other subject areas were aligned to the Pennsylvania Core (PA Core). As the other subjects utilize curriculums not developed specifically for the PA Core, evaluators were concerned about full alignment. Evaluators identified that the Eureka Math program and components of the English Language Arts (ELA) curriculum are aligned to national

Common Core Learning Standards and not fully aligned to PA Core. Further, the social studies curriculum is aligned to PA Core standards for reading and writing in social studies and the Social Studies 3C framework, but not fully aligned to PA Academic Standards for social studies. As such, a comprehensive analysis of the standards gaps in those subjects is not possible. In Kindergarten (sic) and Grade 1, full packages containing student activities and assessments from the Eureka program are provided, but it was not possible to determine student mastery – the extent to which it provides appropriate; ample educational opportunities for students’ application, practice and mastery of each standard, what practices are being used and why they are likely to be effective with the expected student body. Based on what was provided, it also was not feasible to determine the instructional goals and objections beyond what may have been included in the broad lesson plans from the publisher; lesson plan templates were provided but not completed for math For grade levels that would be taught in Year 1, ELA standards were not clearly evidenced for Kindergarten in the areas of Foundational Skills, Informational Text, Literature and especially Writing and for Grade 1 in the areas of Informational Text, Reading Literature and especially Writing Lesson plans were provided for social studies and partially provided for ELA and Math, but for no other subject. Unit plans were provided for social studies, science and math, but only partially provided for ELA, art, music and physical education. Evidence of differentiation was not provided for math or physical education and only partially provided in all other subject areas for which curricular materials were submitted (Attachment 1).

(PHPCS 1118-1119).

22. The Kindergarten Math curriculum does not address two PA Core standards – CC.2.1.K.B.1 and CC.2.2.K.A.1. (Attachment 1.B.i.b).
23. As noted in the English Language Arts Standards Map to the PA Core Standards submitted by the Applicant, the Core Knowledge curriculum standards map “does not include foundational reading skills”. (Attachment 1.A.i.b).
24. In the Concluding Document, the Applicant does not dispute the lack of alignment with the social studies curriculum. (PHPCS 1133).

Community Support

25. The Applicant has held “over 40 stakeholder meetings” to raise support for the school and to get feedback on the proposal. (PHPCS 9). Said outreach, however, has focused on the area surrounding the proposed location for the school, as opposed to citywide efforts to

reflect the diverse student body that is part of the Applicant's model. The meetings identified as being held with community organizations occurred in the Germantown and East Falls neighborhoods. (PHPCS 78-79).

26. The Application includes the following community support documents:

- a. Twenty-five (25) letters of support from elected officials, educational institutions, community groups and potential partners (PHPCS 849-874).
- b. Interest to enroll forms reflecting 52 students who would be grade/age eligible for enrollment in K-1 in the 2019-2020 school year. (PHPCS 720-841).
- c. Copies of five postings on the Facebook page for PHPCS. (PHPCS 844-848).
- d. A meeting sign-in sheet containing 9 signatures. (PHPCS 842-843).

27. No one spoke in support of the proposed Charter School at the December 18, 2017, public hearing. Four individuals provided public comment against the approval of any new charter applications. (12/18/17 N.T. 139-157).

28. Two letters of support for the Charter School were received by the SRC during the publicized public comment period. The SRC received four communications asking that the PHPCS application, specifically, be denied. Four additional communications were received asking for the denial of all new charter applications. (PHPCS 1148-1170). One of the emails received during the public comment period, on behalf of the SoLo/Germantown Civic Association ("Civic Association"), indicated that the group had met with the Applicant group for the purpose of understanding what they were and to get information; the author of the email wanted to clarify for the record that the Civic Association did not as an organization agree to support/endorse PHPCS. (PHPCS 1166).

Financial Planning

29. The Applicant states that the Charter School would not permit employees to participate in the Public School Employees Retirement System (“PSERS”); rather, employees will participate in a Section 403(b) plan. (PHPCS 51, 69, 210, 328-329). The Application describes the 403(b) plan as having a 3% employer match. (*Id.*) The CSO observed in its Evaluation Report that a 3% match is “below the level necessary for PSERS approval of an alternate retirement plan which requires a minimum of a 5% employer contribution.” (PHPCS 1123). At the time of submission of the Application, the Applicant had not been aware that PSERS standard for employer match is 5%, and that adjustment would need to be made to its budget to add a \$40,000 increase on an annualized basis. (PHPCS 1139; 1/24/18 N.T. 71).

30. The 403(b) plan has not yet been created. (1/24/18 N.T. 70-71).

31. The budgeted expenditure for “Contracted Services – Pupil Health” is \$14,180, which is an expenditure expected to cover only part-time nursing services in year 1. (PHPCS 508; 1/24/18 N.T. 75-76). No money is included in the budget for a school dentist or school physician to conduct examinations, and the Application did not address what examinations and screenings were to be conducted by grade level. (PHPCS 1125). The CSO concluded that \$14,180 is a “low” amount even for part-time, on-site contracted nurse. (PHPCS 1125).

32. Information in the Application raises concerns about the health care benefits and coverage that would be afforded to employees, and whether such coverage will be comparable to the coverage provided to School District employees. The CSO provided the following observation, which the SRC finds to be credible and supported by the record:

Further review of the health care plans proposed for PHPCS employees indicated they are comparable in deductible amounts (\$0 deductible), preventative care

coverage and copay amounts for in-network or primary or specialist visits; however, the plans are not comparable specifically for participants who may need additional non-preventative care, where there are significantly higher out of pocket maximums (more than \$2-3,000) and copays for lab work, radiology/imaging, outpatient surgery, ER and hospital services (page 48 and Attachment 12). Based on these coverage comparison gaps, the proposed budget for health insurance is likely reasonable but reflects coverage levels that are not comparable to those of the District.

PHPCS 1123).

33. In its Concluding Document, the Applicant suggests that employees would have the same out-of-pocket exposure for preventative and non-preventative care as School District employees, and indicates that an “updated plan comparison” could be provided. (PHPCS 1139). If there is in fact a document that contains differing information than the information submitted with the Application, that document should have been provided with the Application.

34. In addition, the Applicant suggests in the Concluding Document that PHPCS will be able “to supplement specific costs within the plans available in the market to ensure that employees’ financial exposure from health benefits under the PHP plan would be the same if they were to enroll in the SDP plan.” (PHPCS 1139). However, the Applicant has not included additional funding in the current budget under review to supplement such costs.

35. According to the Applicant’s budget, included in the projected revenue in year 1 is \$230,000 in fundraising. (PHPCS 507). Of that amount, the Applicant provided a letter reflecting commitment for only \$50,000. (PHPCS 524).

36. The projected fund balance at the end of year 1 is \$23,507.35. (PHPCS 508).

Governance

37. The Bylaws for PHPCS’s governing board permit Board members to be removed with or without cause by a vote of 2/3 of the board members. (PHPCS 422).

38. According to the narrative, an Executive Committee of the Board, chaired by the Board Chair and officers of the Board, is responsible for, *inter alia*, “facilitating decisions on behalf of the full [Board of Trustees] in keeping with good corporate governance practice or otherwise as specifically authorized”. (PHPCS 62). Those representations are not consistent with the role of the Executive Committee described in the Bylaws. (PHPCS 423). Given the fact that the full Board will meet only 6 times per year (PHPCS 64), the authority given to the Executive Committee to act in between meetings is a concern, given the unclear and conflicting statements.

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 SRC examines the Application.

III. Analysis Under the CSL

A. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate “sustainable support for the charter school plan by teachers, parents, other community members and students” within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). “Sustainable support” has been defined by CAB as “support sufficient to sustain and maintain a proposed charter school as an ongoing entity.” *Bear Creek Community Charter School*, CAB No. 2003-3; *Ronald Brown Charter School*, CAB No. 1999-1. Sustainable support is “an inherent variable based upon the size of the proposed school, the size of the community and other factors.” *Environmental Charter School*, CAB No. 1999-4. Sustainable support is measured in the

aggregate and not by individual categories. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa.Cmwlth. 2003). The appropriate measurement for sustainable support is against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB No. 2004-2, at 6-7.

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB No. 2000-14. The support documents, including petitions, must clearly identify that the signers or supporters are school district residents to be considered as evidence of sustainable support. *Dr. Lorraine K. Monroe Academy Charter School*, CAB No. 2000-16.

The Applicant is a new charter operator in both Pennsylvania and Philadelphia, with a truly unique mission and focus on the teaching of Modern Hebrew to an intentionally diverse student body. The Applicant touts the large number of meetings that it has held with various segments of the Philadelphia community to garner support for the Charter School. The Applicant's efforts are laudable; however, those significant efforts have not resulted in significant support for the Charter School's model based on the support documents submitted with the Application. The Application contains information to support that 52 grade-eligible students are interested in enrolling in the school, and only 27 letters of support were obtained. Given the efforts that have been undertaken to date, the SRC would have expected to see more support for the proposed Modern Hebrew teaching model from parents, teachers and the greater community. Notably absent is a reflection of City-wide outreach that would help the Applicant obtain the diversity-by-design outcomes through the City-wide admission practices that it proposes to use. Most of the outreach was in the area near the proposed location for the school.

Reviewing all of the submitted evidence of community support in the aggregate, the Applicant has not met its burden of showing sustainable support for the proposed school and for the overall charter school plan set forth in the Application, as required by Section 1717-A(e)(2)(i) of the CSL.

B. The Applicant Has Not Established That It Has Properly Planned To Operate In Accordance With The CSL Or 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, that it meets 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 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).

The Bylaws submitted for PHPCS indicate that the Charter School’s Board will have an Executive Committee. Inconsistent representations about the role of the Executive Committee are stated between the Application narrative and the Bylaws. Those inconsistencies raise concerns, particularly given the fact that the Charter School’s full Board will only meet 6 times per year,

which means that decisions would likely need to be made in between meetings. The Charter School's Board is statutorily required to hold the powers described in 24 P.S. § 17-1716-A; committees established by the Board cannot hold or exercise these powers. The documents submitted with the Application did not provide evidence that the Board as a whole would maintain all of the powers set forth in Section 1716-A.

The Bylaws also permit the Board to remove a Board member *without* cause by a 2/3 vote. 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 make 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.

The myriad of independence and governance concerns presented in the Application lead to the conclusion that the Charter School would not be operated in accordance with the CSL.

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 State Board of Education regulations, 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. The submission of curriculum 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 Founding Group d/b/a/ Duquesne Charter School v. Duquesne City School District*, 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.

A thorough review of the Applicant's curricular materials for Kindergarten and 1st grade found that the social studies curriculum was not aligned with the Pennsylvania Academic Standards in social studies, a fact which the Applicant did not dispute in its Concluding Document. The Eureka Math curriculum in Kindergarten was not fully aligned with the PA Core standards. In English Language Arts ("ELA"), various PA Core standards are not evident in the ELA curriculum, including Foundational Skills, Informational Text, Literature, and Writing in Kindergarten and Informational Text, Reading Literature, and Writing in Grade 1.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents that meet the standards set by the CSL and CAB. The curricular documents submitted establish that more work needs to be completed by the Applicant to offer comprehensive planned instruction that fulfills the mandates of Chapter 4.

Financial Planning

Several material concerns exist regarding the Applicant's financial plan for the Charter School, which cause the SRC to conclude that the Applicant has failed to properly plan to meet the requirements of Pennsylvania law.

The Applicant relies on fundraising revenue of \$230,000 but did not provide support for \$180,000 of that amount. While the SRC appreciates that HP has had success in fundraising in its

other schools, some level of committed resources should be provided to establish a basis for the \$180,000 amount, where those funds are needed to balance the submitted budget.

Related to expenditures, concerns exist related to the amounts budgeted for school health services, health care coverage to staff and the Applicant's retirement programs. The addition of retirement expenditures reflecting the 5% employer match alone would result in the Charter School's inability to provide adequate resources in those areas without overspending its budget, with the minimal fund balance of \$23,507 projected by the Applicant.

The Applicant indicated that it did not intend to have its employees participate in PSERS, but rather in an Internal Revenue Code Section 403(b) deferred compensation retirement plan. The CSL states as follows: "All employees 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 does not have an alternative retirement program in place that covers prospective employees of the Charter School. Until such time as a 403(b) plan is approved for the Charter School, the Charter School must participate in PSERS, and the Charter School has not properly budgeted to do so.

In addition, even if the Applicant is ultimately approved for a 403(b) plan, PSERS has not approved plans with less than a 5% employer contribution, as noted by the Applicant in the concluding document. The Applicant has only budgeted for a 3% employer contribution, which would result in the Applicant overspending its budget.

The Applicant's health care coverage for non-preventative care is found to be dissimilar to the School District's coverage. The CSL requires that charter school employees "be provided the

same health care benefits as the employee would be provided if he or she were an employee of the local district.” 24 P.S. § 17-1724-A(d). The Applicant has not budgeted funds to make up the difference in coverage, and the resulting costs that would be incurred by employees, consistent with the promises rendered in the concluding document.

The other budget concern relates to school health services. Charter schools are required to comply with Article XIV-A of the Public School Code, which prescribes the health services to be provided to students, including *inter alia*, health screenings and medical and dental examinations. 24 P.S. § 17-1732-A(a). The implementing regulations for the school health requirements under Article XIV-A are found in 28 Pa. Code § 23.1 *et seq.*

Every child of school age shall be given . . . (1) a vision test by a school nurse, medical technician or teacher, (2) a hearing test by a school nurse or medical technician, (3) a measurement of height and weight by a school nurse or teachers, who shall use the measurement to compute a child’s weight-for-height ratio, (4) tests for tuberculosis under medical supervision, and (5) any other tests as the Advisory Health Board may deem advisable to protect the health of the child. Vision tests shall be given at least annually and other tests at intervals established by the Advisory Health Board.

24 P.S. § 14-1402(a); see also, 28 Pa. Code §§ 23.4 (vision tests), 23.5 (requiring hearing test in grades 1, 2, 3, 7 and 11), 23.7 (requiring height and weight measurement by school nurse or teacher at least once annually).

“The school physicians of each district or joint board shall make a medical examination and a comprehensive appraisal of the health of every child of school age, (1) upon original entry into school in the Commonwealth, (2) while in sixth grade, [and] (3) while in eleventh grade . . .”

24 P.S. § 14-1402(e); see also 28 Pa. Code § 23.2. “All children of school age, in the Commonwealth, (i) upon original entry into the school, (ii) while in third grade, and (iii) while in the seventh grade, shall be given a dental examination by a school dentist . . .” 24 P.S. § 14-1403(a); see also 28 Pa. Code § 23.3.

As these regulations indicate, a myriad of screenings and examinations must occur upon a child's original entry into school, which would include the kindergarten and 1st grades to be offered at the Charter School. A school nurse, dentist and physician would need to be contracted to provide those services. Further, a charter school is required to provide school nursing services as part of the school health program to administer medications and supervise first aid services. 24 P.S. §§ 14-1402(a.1), 14-1421(a); 23 Pa. Code § 23.79.

The Applicant's conclusory statements in the Application regarding the Charter School's intention to fulfill the student medical exam/screening requirements are noted. (PHPCS 33). However, the Applicant's budget does not reflect sufficient expenditures to meet those requirements. Nor does the Applicant mention or reflect an understanding that more than nursing services are required by the applicable laws – the Charter School must also ensure that dental and medical exams are provided to all students, should those students or their families fail to obtain such exams themselves. The \$14,180 budgeted expenditure for all school health services is insufficient.

All of these issues cause the SRC to conclude that the Applicant did not engage in sufficient planning to understand the requirements of operating a charter school in Pennsylvania.

C. 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 SRC 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 raises concerns, as discussed more fully in Part B 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum in Part B above. The SRC reiterates that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4.

3. Section 1719-A(6) – The Admission Policy And Criteria For Evaluating The Admission Of Students

Although the Admissions Policy addresses the initial application for admission and the lottery process, the Policy does not identify the additional information that will be required from students and their parents in order for the students to enroll. No additional enrollment materials were provided with the Application to ascertain whether enrollment practices would be in compliance with the various requirements of the Public School Code and applicable State Board of Education regulations.

4. Section 1719-A(7) – Procedures Which Will Be Used Regarding The Suspension Or Expulsion Of Pupils. Said Procedures Shall Comply With Section 1318.

The Applicant provided a Code of Student Conduct with the Application, but the Code does not reflect the Restorative Practices approach proposed to be used to address school climate and student discipline. The Code does not reflect the positive framing of expected behaviors, a fact that the Applicant recognizes in its Concluding Document. (PHPCS 1142).

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

As explained more fully above, material concerns exist regarding the financial planning of the Charter School.

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 SRC concludes that the Applicant must take additional steps before it could serve as a model for other public schools in Pennsylvania.

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ORDER

For the reasons set forth above, the 2017 Application to create the Philadelphia Hebrew Public 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).



Joyce Wilkerson
Chair

RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for Philadelphia Hebrew Public Charter School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 24, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school starting in the 2019-2020 school year serving K-Grade 5 with a maximum enrollment of 468 students in the fifth year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

**THE SCHOOL DISTRICT OF PHILADELPHIA
THE SCHOOL REFORM COMMISSION**

**IN RE: MASTERY CHARTER ELEMENTARY SCHOOL
2017 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The School Reform Commission ("SRC") adopts this Adjudication regarding the 2017 Application filed with The School District of Philadelphia ("School District") by the applicant for the Mastery Charter Elementary School ("MCES", "Applicant" or "Charter School"). For the reasons that follow, the 2017 Application is denied.

I. Findings of Fact

1. The School District is a home rule school district of the first class organized and existing under the Pennsylvania Public School Code and the Philadelphia Home Rule Charter.
2. The School District was declared a distressed school district under Section 691(c) of the Distressed School Law, 24 P.S. § 6-691(c), and has been governed by the SRC since December 21, 2001.¹
3. The SRC currently authorizes 84 operating charter schools serving more than 65,000 students.
4. The Charter Schools Office ("CSO") assists the SRC and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting

¹ The Distressed School Law was added to the Public School Code by the Act of Dec. 15, 1959, No. 1959-675, § 2, P.L. 1842, 1844, as amended, 24 P.S. §§ 6-691 to 6-697, as a second article numbered "VI(f)." Special provisions relating to school districts of the first class were added in 1998 and later years.

accountability by exercising oversight for educationally sound and fiscally responsible charter schools as a means of improving academic achievement and strengthening school choice options in the School District.

5. On or before November 15, 2017, the School District received nine (9) new charter school applications. Two of those applications were ultimately withdrawn, such that the SRC considered seven (7) new charter school applications during the 2017-2018 new application cycle.
6. One of those new applications was filed by the Applicant ("Application"). (MCES 1-1724).²
7. The SRC appointed a Hearing Officer to preside at the hearings to be held on all of the new charter school applications. Pursuant to the appointment letter, the Hearing Officer was empowered to undertake the following actions: "(1) to regulate the course of each charter application hearing, including the scheduling thereof, subject to the approval of the Chief of Staff of the SRC or her designee; (2) to administer oaths and affirmations; (3) to issue subpoenas, if necessary or permissible under applicable law; (4) to rule on offers of proof and receive evidence as may be permissible under applicable law; (5) to hold appropriate conferences before or after hearings; (6) to hear and dispose of procedural matters and motions in anticipation of or during hearings; and (7) to take other action necessary or appropriate to discharge your duties as Hearing Officers consistent with law."

² The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "MCES."

8. Two public hearings were held on the Application, the first occurring on December 18, 2017, and the second occurring on January 24, 2018. The public hearings were each stenographically recorded.³
9. The SRC has reviewed and evaluated the complete record in this matter, which contains the following documents:
 - a. The form application issued by the School District for use during the 2017-2018 new application cycle, which can be found at https://drive.google.com/file/d/0B9x1ev_U2NtlSkJDWmQ4YXVGQk0/view.
 - b. The Application including all submitted attachments (MCES 1-1724);
 - c. The curriculum submitted by the Applicant, which has not been bates stamped to date;
 - d. A Powerpoint presentation by the Applicant at the initial hearing, marked as Charter School Exhibit No. 1 (MCES 1725-1747);
 - e. The Evaluation Report issued by the CSO, which was marked as School District Exhibit No. 1 (MCES 1748-1761);
 - f. The Experienced Operator Addendum supplied by the CSO, which was marked as School District Exhibit No. 2 (MCES 1762-1783);
 - g. Public comments received by the SRC during the advertised public comment period (MCES 1784-1796);
 - h. The concluding document filed by the Applicant (MCES 1797-1803); and
 - i. Transcripts from the hearings held on December 18, 2017 and January 24, 2018.

³ The Notes of Testimony from the two hearings will be referred to as "12/18/17 N.T. __" and "1/24/18 N.T. __", respectively.

10. Supplemental materials were not accepted following receipt of any of the new applications.

The 2017-2018 application form published by the School District specifically states on page 2: “Applications must be complete upon initial submission. No supplementary materials will be considered after submission.”

General Information

11. The name of the entity applying for the charter is Mastery Charter High School (“MCHS”), which is the proposed management company for the school. If granted, the Charter School would become part of the network of Mastery Charter Schools (“Mastery”), all of which are managed by MCHS. (MCES 1, 7, 33, 57).
12. The name of the proposed charter school is the Mastery Charter Elementary School. (*See e.g.* MCES 1).
13. The Charter School seeks a five-year charter for the school years 2019-2020 through 2023-2024. (MCES 4).
14. The Charter School would open in year 1 with Kindergarten through grade 2 with 175 students. Thereafter, the Charter School would add grades and students, ultimately proposing to serve students in Kindergarten through 8th grade with 756 students by year 6. (MCES 4, 7, 47).
15. The proposed school address is 900 W. Jefferson Street, Philadelphia, PA 19122. (MCES 1455). MCES proposes to give priority enrollment to children who live in zip codes 19122, 19121 and 19123. (MCES 7, 67, 1798; 1/24/18 N.T. 38).
16. The Charter School’s vision for the school is for it to become “one of the highest performing neighborhood schools in this section of North Philadelphia, and eventually one of the highest-performing schools citywide.” (MCES 5, 1797).

17. The charter schools in the Mastery network share a “common academic model”. (1/24/18 N.T. 107).
18. The Applicant did not submit a school calendar with the Application showing the projected length of the school year, holidays and anticipated professional development and in-service periods. The calendar attached to the Application is for the 2017-2018 school year for the existing Mastery charter schools. (MCES 292-293; 1/24/18 N.T. 80).

MCHS

19. MCHS currently serves as the management company for 14 operating charter schools in the City of Philadelphia. (MCES 1762-1783). Nine of these schools are Renaissance Charter Schools. (1/24/18 N.T. 32).
20. On or before November 15, 2014, MCHS submitted an application for Mastery Charter School – Gillespie Campus. On February 18, 2015, by Resolution No. SRC-24 (“SRC-24”), the SRC granted a charter to Mastery Charter School – Gillespie Campus (“Mastery Gillespie”) to operate for a three-year period commencing July 1, 2016 and ending on June 30, 2019.
21. Mastery Gillespie was approved to operate in the former Gillespie Middle School building at 3901-3961 N. 18th Street, Philadelphia, PA 19140.
22. Although approved to open in the 2016-2017 school year, Mastery Gillespie did not open in that school year. On November 15, 2016, the SRC approved a resolution, Resolution No. SRC-7 (“SRC-7”), granting an amendment to Mastery Gillespie to delay its opening year to the 2017-2018 school year, but further permitted MCHS to delay the opening by an additional year if such a request were made. SRC-7 is attached hereto as Appendix “A”.

23. MCHS made a request to delay opening to the 2018-2019 school year, and Mastery Gillespie is now expected to begin its first year of operations in the 2018-2019 school year. (1/24/18 N.T. 37).
24. Mastery Gillespie has been approved to open with 503 students in K-6, and MCHS is currently undertaking the enrollment process for the Mastery Gillespie seats. (1/24/18 N.T. 36-37; Appendix “A”).
25. Since the SRC granted the charter for Mastery Gillespie in February of 2015, the performance of the schools within the Mastery network has not shown the same level of achievement as in prior school years. Specifically, following the realignment of the PSSA exam to the Pennsylvania Core standards in the 2014-2015 school year, almost every individual school in the Mastery network that includes K-8, or some combination of those grades, went from outperforming the School District average proficiency rate in math on the PSSA to underperforming the School District’s proficiency rate in Math in 2014-2015 and thereafter.⁴ (MCES 1762-1783). Achievement of Mastery students on the Keystone Exams has been inconsistent in terms of improvement from year to year in each school, and several Mastery schools (Hardy Williams Academy Charter School, MCHS – Lenfest Campus, Mastery Charter School – Shoemaker Campus, Mastery Charter School – Thomas Campus, Mastery Charter School – Pickett Campus, Mastery Charter School Clymer Elementary, Mastery Charter School Simon Gratz Campus, Mastery Charter School Cleveland Elementary, and Mastery Charter School – Pastorius Elementary) have not

⁴ The 2014-2015 school year is used as a baseline because: (i) that data would have post-dated the decision to grant a charter to Mastery Gillespie in February 2015; and (ii) for those schools with some combination of grades 3-8, the 2014-2015 PSSA reflects re-alignment to PA Core standards. The 2014-2015 PSSA data and School Performance Profile (“SPP”) data were not available until the Fall of 2015, after the SRC’s decision on Mastery Gillespie.

shown sustained improvement in their SPP scores as measured since the 2014-2015 school year. (*Id.*)

26. Not a single Mastery-operated school is identified by the Pennsylvania Department of Education (“PDE”) as being in the top quartile of operating charter schools in Pennsylvania during the 2015-2016 and 2016-2017 school years, pursuant to the list of such schools released in February, 2018. See <http://www.education.pa.gov/K-12/Charter%20Schools/Pages/Charter-Schools-Meeting.aspx>.
27. As noted in the CSO Evaluation Report: “In 2016-2017, the average building level [SPP] score for all Mastery Charter Schools was 55.5 and with the exception of only one of these schools, the SPP score for each MCHS-operated school was lower in 2016-2017 than in the first year that same MCHS-operated school received a SPP score.” (MCES 1753).
28. The SRC acknowledges that 9 of the 14 schools operated by Mastery are Renaissance Charter Schools, and that 3 additional Mastery schools had been School District schools which were converted to charter schools prior to the Renaissance initiative. (1/24/18 N.T. 32-33). However, that does not explain the substantial changes in achievement trends since the 2013-2014 school year.

Curriculum and Educational Programming Proposed for MCES

29. The mission of the Charter School is: “All students learn the academic and personal skills they need to be truly prepared for postsecondary success and able to pursue their dreams.” (MCES 5). The Applicant did not propose any academic or non-academic goals associated with postsecondary success to enable the Applicant to measure mission attainment. The Charter School did not propose any methodology or means by which students would be tracked or monitored following matriculation from 8th grade.

30. The curriculum and educational plan for the proposed Charter School are described on MCES 10-15 and in the curricular documents included in Attachments 1, 1A and 1B.
31. The Applicant did not provide any curricular documents for the non-core courses that it represents will be in place in Kindergarten through 2nd grade in year 1: art, music, physical education, and health. (MCES 15; see also curricular documents submitted in Attachment 1). The table of contents for Attachment 1 identifies curricular documents only for math, reading, writing, science and social studies.
32. The Applicant did not submit standards alignment maps for all courses, a fact admitted in the Applicant's concluding document. (MCES 1799).
33. The Applicant did not submit a professional development plan for the new school (for pre-service in the 2018-2019 school year or for the 2019-2020 school year) as an attachment.⁵ The Application's narrative does not identify the specific professional development sessions or subjects that will be addressed or when those specific opportunities would occur both prior to the start of the school year or thereafter to reflect that new staff would receive appropriate training on the myriad of systems and philosophies proposed to be used by the Applicant.
- a. The Applicant anticipates that 90% of their hires would be new employees to the Mastery system (1/24/18 N.T. 91), which means that these individuals would not have experience in the various programs and philosophies utilized at Mastery.

⁵ According to the form application instructions, each applicant is to "[p]resent a detailed professional development plan as Attachment 10, including the subject matter of training, frequency of training, and the individuals or groups responsible for providing the training." (MCES 40). The Applicant submitted a calendar in Attachment 10, but it is a "Mastery Charter Schools PD Calendar: 2017-2018", clearly for the existing schools and not for the initial school year for the proposed new school. The calendar submitted in Attachment 10 does not identify any pre-service training for staff and does not identify the subjects to be offered during pre-service training or training during the school year. (MCES 292).

- b. Multiple systems or frameworks will be rolled into a “blended model” of school culture and climate including: Restorative Practices, Responsive Classroom, Trauma-Informed Practices, choice chart system (K-3), merit-demerit system (4-8), cultural context, Positive Behavioral Intervention and Support. (MCES 24-27).
- c. Training is supposed to occur for 10 days during the summer (MCES 41), but the Applicant did not provide any information about the specific opportunities/sessions that would be included in that training or whether those sessions would address the culture and climate systems and frameworks described above.
- d. The school culture team is composed of the Assistant Principal of School Culture (hired in year 3), the Dean of Students, a school social worker, and a part-time attendance coordinator. (MCES 25). The Application represents that these individuals will receive training on Restorative Practices and Trauma-Informed Practices (MCES 24) but the Application does not reflect training on those practices to other staff members including teachers who would be primarily involved in the day-to-day contact with students and who are expected to participate in, for example, restorative conferencing (MCES 24). Both the Assistant Principal of School Culture and the attendance coordinator would not be hired until year 3. (MCES 38).
- e. The Application indicates that the Assistant Principal for School Culture is accountable for student discipline and school safety and that the Assistant Principal for Operations is also responsible for school safety. (MCES 38, 51, 53). Neither of these positions will be filled until year 3 of the Charter (MCES 38, 53), which raises

concerns about the full implementation of, and training on, the proposed model, particularly the Restorative Practices and Merit-Demerit System pieces.

34. The anticipated English Learner population at the Charter School is 3% of enrollment, which equates to more than 5 students in year 1. (MCES 47). The MCES budget and staff list does not include an employee serving as an English as a Second Language teacher; rather, MCES proposes to use the services of an ESL teacher employed by MCHS. (MCES 38, 1757; 1/24/18 N.T. 63-64).
35. The CSO presented an Evaluation Report of the Application at the January 24, 2018 hearing. (MCES 1748-1761). The following observations by the CSO regarding the curriculum and educational programming and professional development are found to be credible and supported by the record, and are incorporated herein:

Academic Plan

* * *

There were significant citations of research and provided curricular documents appear to be evidence-based; however, there were no curricular materials provided for the proposed non-core courses (music, art, world languages, physical education and health). Additionally, although curricular materials were provided for all core content areas including writing, the materials provided were not complete and some were not fully aligned to Pennsylvania Core (PA Core) or Pennsylvania Academic Standards (PAS). For example, the applicant did not provide clear evidence that he proposed curricular for English Language Arts (ELA), social studies and math are PA Core or PAS aligned; unit plans were only partially provided for ELA and math; and lesson plans were only partially provided for subjects for which curricular materials were presented. The applicant provided enVision math curricular materials; however, evaluators note that as no standards crosswalk or alignment was provided by the applicant and as enVision math is aligned to the national Common Core Learning Standards, evaluators were not able to determine if the curriculum that would be used by MCES was aligned to the PA Core. (Attachments 1, 1A, 1B).

* * *

The School Culture & Climate section provides a comprehensive description of the applicant's vision for a positive learning environment. The plan includes a blend of Restorative Practices, Trauma-Informed Practices, Responsive Classroom,

Classroom Behavior Systems and Postsecondary Readiness (page 20). The use of a restorative model with a focus on trauma-informed care suggested to evaluators that the applicant is aware of and responsive to the risk factors and traumas that Philadelphia students may experience that can impact their readiness for learning. However, evaluators did raise questions of how the extrinsic influence of the Merit/Demerit System in Grades 4-8 would coexist with the intrinsic Restorative Practices. Further, the applicant states that only the Charter School's culture team will receive training in Restorative Practices and Trauma-Informed Practices, while not mentioned any classroom teacher training in these practices or classroom systems including Responsive Classroom. The evaluation team noted that in a school that would serve 756 students at scale, having only a handful of staff trained in these systems is likely to pose a challenge in implementing the positive learning environment as proposed, particularly if none of the staff are the classroom teachers (pages 20-21). Evidence of classroom teacher training in these systems/philosophies was not present in other parts of the application, including in the Staff Development section and documents related to professional development.

(MCES 1754).

36. The lack of evidence of alignment to PA Core in the curriculum documents submitted is also concerning given the significant drop in math achievement since 2014-2015 by students in the Mastery network compared to the School District schools. This provides evidence that the enVision curriculum in use at Mastery has not been properly aligned to the PA Core.

Community Support

37. The Application includes the following community support documents:
- a. One letter of support from one elected official. (MCES 1460)
 - b. A petition to support an application to open a K-8 school in Fall 2019 that contains approximately 1200 signatures. None of the signers indicate if they are a parent or teacher. (MCES 1461-1658).
38. No one spoke in support of the proposed Charter School at the December 18, 2017, public hearing.

39. No written letters or emails of support for the Charter School were received by the SRC during the publicized public comment period.
40. The Applicant did not submit any partner Memoranda of Understanding.
41. The SRC received one (1) letter asking for the Application to be denied and five (5) letters arguing that no charter school applications should be granted. (MCES 1784-1796). Four individuals spoke against charter school expansion at the December 18, 2017 hearing. (MCES 12/18/17 N.T. 139-157).
42. The Applicant references a wait list for its other schools, but did not submit the wait list or any information to be reviewed by the CSO or the SRC to ascertain the validity of the weight list information; whether students would be grade-eligible; or whether students reside in the proposed priority enrollment zone. (MCES 7, 68).
43. Not a single document was submitted evidencing the intent or desire of a parent – from the proposed priority enrollment zone or elsewhere in the City of Philadelphia – to enroll his/her child in MCES.

Governance Issues

44. The Applicant did not submit Articles of Incorporation for the proposed Charter School. The incorporation documents attached to the Application are for MCHS, the proposed management company. (MES 403-417, 1798).
45. The Applicant did not submit Bylaws for MCES. The Bylaws attached to the Application are for MCHS. (MCES 418-425, 1798).
46. Notwithstanding the fact that the Bylaws are for a different entity, the Applicant confirmed at the hearing the Applicant's anticipation that the Bylaws structure for MCES would be the same as that which was submitted for MCHS, and that MCES would have an Executive

Committee. (1/24/18 N.T. 99-100). The Bylaws authorize the establishment of an “Executive Committee” composed of the Board Chair, Treasurer, at least two other at-large voting members and the Chief Executive Officer, who sits as a non-voting member. The Bylaws further provide: “The Executive Committee will be authorized by the Board to take action, approve financial commitments, and otherwise conduct the corporations (sic) business.” (MCES 420).

47. Inconsistencies exist between the Application narrative and the proposed Bylaws regarding the authority of MCES’s Board versus the authority of MCHS to approve contracts – the Bylaws identify the Board as having to approve all contracts over \$200 but the narrative indicates the CEO of MCHS has the authority to enter into contracts for MCES up to a value of \$20,000 without MCES Board approval. (MCES 55, 418; 1/24/18 N.T. 103-104).
48. The Application does not contain an accurate list of the proposed Board members for MCES. The Board members identified in the Application are MCHS board members. (MCES 55, 57, 426-429, 1798; 1/24/18 N.T. 95-96). Bob Victor serves as the Chair of the MCHS board. Mr. Victor also serves as the Chair of the board that governs the other Mastery schools, although he does so in an ex-officio, non-voting capacity according to the Applicant. (1/24/18 N.T. 104-108; see also, <http://www.masterycharter.org/about/board-of-trustees/>).
49. The management contract supplied with the Application is not the final or most recent version of the contract, and is not the contract that will be utilized for MCES. For example, the management contract submitted does not reflect the fee structure set forth in the narrative. (Cf. MCES 45, 61, 64 to 439, 440-41, 1797; 1/24/18 N.T. 111-114). The contract

also references an application date of June 18, 2015 with a charter school opening date in the 2018-2019 school year. (MCES 435).

50. MCHS's legal counsel, O'Donnell and Associates, represents MCHS, the existing Mastery schools and will also represent MCES. (MCES 56, 447). The Applicant confirmed at the hearing that MCES does not have separate legal counsel beyond O'Donnell and Associates to engage in negotiations of the management contract. (1/24/18 N.T. 103).

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 SRC examines the Application.

III. Analysis Under the CSL

A. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate “sustainable support for the charter school plan by teachers, parents, other community members and students” within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). “Sustainable support” has been defined by CAB as “support sufficient to sustain and maintain a proposed charter school as an ongoing entity.” *Bear Creek Community Charter School*, CAB No. 2003-3; *Ronald Brown Charter School*, CAB No. 1999-1. Sustainable support is “an inherent variable based upon the size of the proposed school, the size of the community and other factors.” *Environmental Charter School*, CAB No. 1999-4. Sustainable support is measured in the aggregate and not by individual categories. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 405 (Pa.Cmwlth. 2003). The appropriate measurement for sustainable

support is against the initial opening and operation plan of the charter school. *Bear Creek Community Charter School*, CAB No. 2004-2, at 6-7.

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB No. 2000-14. The support documents, including petitions, must clearly identify that the signers or supporters are school district residents to be considered as evidence of sustainable support. *Dr. Lorraine K. Monroe Academy Charter School*, CAB No. 2000-16.

In addition to the aforementioned concepts, charter schools are mandated to develop and implement strategies for meaningful parent and community involvement. 24 P.S. § 17-1715-A(2). Section 1719-A(8) requires applications to contain, *inter alia*: “[i]nformation on the manner in which community groups will be involved in the charter school planning process.” 24 P.S. § 17-1719-A(8). Whether or not an applicant has developed any community partnerships as of the time of the application is a valid consideration relating to its community support. *Duquesne Charter School Founding Group d/b/a/ Duquesne Charter School v. Duquesne City School District*, CAB No. 2013-01, at 8, n.1 (hereinafter referenced as “*Duquesne Charter School*”).

The Charter School intends to enroll 175 students in its first year of operation. The Applicant did not submit any documents supporting a parent’s intent to enroll a child in the newly proposed charter school. Although wait lists for other schools in the Mastery network are referenced by the Applicant in the Application and in the concluding document, the wait lists were not provided for review. Thus, the SRC cannot determine how many students are on each wait list; the student’s residence, age or grade; the location and type of school (Renaissance or other charter school) for which the wait list is maintained; the number of duplicative students that might be in the wait list for multiple Mastery schools; and other pertinent considerations. Mastery is

currently filling 503 seats for Mastery Gillespie to open in year 1 in August 2018, and such enrollment may affect the current Mastery network wait lists. Further, the wait lists do not reflect parents and students who might be interested in enrollment in K-2 in a brand new school opening in the 2019-2020 school year.

Mastery submitted only one letter of support from an elected official. Not a single parent or community member (other than the one elected official) submitted a letter or email supporting the Applicant's plans to expand to open a new charter school, and no one spoke in support of the Applicant or expansion of the Mastery network during public comment at the first hearing. The SRC has reviewed the petition signatures supplied by the Applicant, but does not view them as establishing sufficient support for another North Philadelphia charter school in the Mastery network under the circumstances here, given the fact that Mastery is already opening Mastery Gillespie, to be operated by MCHS, in the 2018-2019 school year. Nor is there any evidence that the petition signatures represent support from prospective parents, family members or teachers.

Reviewing all of the submitted evidence of community support in the aggregate, the Applicant has not met its burden of showing sustainable support for the proposed school and for the overall charter school plan set forth in the Application, as required by Section 1717-A(e)(2)(i) of the CSL.

B. The Applicant Has Not Established That It Has Properly Planned To Operate In Accordance With The CSL Or 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, that it meets 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 between the applicant and any proposed management company. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 407-408 (Pa.Cmwlth. 2003).

A number of governance-related concerns exist with this Applicant. First, the Applicant failed to supply Articles of Incorporation or Bylaws for MCES. The documents supplied are for MCHS, the management company. The management contract attached to the Application is not the final contract, according to the representations of the Applicant, and does not reflect the correct management fees and other terms. These are all basic deficiencies in the Application.

Second, a number of submissions raise concerns about the structure of the relationship among MCES, MCHS and MCHS's Board. Pursuant to the Pennsylvania Supreme Court's direction in *West Chester Area School District v. Collegium Charter School*, 812 A.2d 1172, 1185 (Pa. 2002), charter schools must be independent, nonprofit corporations, the operations of which cannot be controlled by management companies. A charter school cannot be a division or part of a management company, and a management company cannot have the power to bind or legally operate the charter school. Further, a management company cannot have any role or relationship with the charter school that substantially limits the charter school's ability to exercise its rights. *Id.*

The Bylaws submitted for MCHS, which the Applicant represents are reflective of the bylaws that would be adopted for MCES, indicate that the Charter School's Board will have an Executive Committee, which will take on functions of the Board as a whole. The Charter School's Board is statutorily required to hold the powers described in 24 P.S. § 17-1716-A; committees established by the Board cannot hold or exercise these powers. The documents submitted with the Application did not provide evidence that the Board as a whole would maintain all of the powers set forth in Section 1716-A. The Executive Committee appears to be able to make decisions without subsequent ratification by the Board as a whole. The CEO of MCHS has a role on the Executive Committee of MCES as does the Board Chair of MCHS, which contributes to the SRC's concerns about the independence of the MCES Board.

MCES's failure to procure independent legal counsel to negotiate a management contract raises another independence concern. Under the current CSL structure, arms-length transactions must occur between management companies and charter schools. As noted by the Commonwealth Court in a decision issued in May 2017, "[u]nder the CSL and *Collegium*, management agreements must be products of arms-length negotiations between separate and independent entities." *Insight PA Cyber Charter School v. Pennsylvania Department of Education*, 162 A.3d 591, 598 (Pa.Cmwlt. 2017). If both of those entities are represented by the same legal counsel, leaving aside the conflict issues that arise under the Rules of Professional Responsibility, the negotiations and transactions between the two parties cannot be considered arms-length.⁶

Inconsistencies also exist in the Application documents related to the power and authority of MCHS to make purchasing and contractual decisions for MCES and MCES's Board. The

⁶ The Court in *Insight* also noted that all teachers at the charter school must be employees of the Charter School and not be employees of the management company. *Id.* The Applicant's intention here to have the ESL teacher be employed by MCHS is not permitted under that structure.

Bylaws suggest that the Board has the authority to enter into contracts for expenditures of \$200 or more, but the narrative states that MCHS and its CEO have the authority to bind MCES for purchases and contracts up to \$20,000, a significant amount.

The myriad of independence and governance concerns presented in the Application lead to the conclusion that the Charter School would not be operated in accordance with the CSL.

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 State Board of Education regulations, 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. The submission of curriculum 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.

The Applicant for MCES failed to submit curricular documents for all of the subject areas and grade levels to be offered at the Charter School in the first year of its proposed existence. No documents or information were supplied for art, music, health, or physical education. As discussed in more detail in the factual findings above, the curriculum attachment includes limited

information about the alignment of enVision Math and the ELA curriculum to the PA Core standards.

An additional concern raised by the lack of curricular alignment relates to the performance of Mastery's existing schools. As noted in the Experienced Operator Addendum and discussed above, the academic achievement of students in Mastery schools, particularly at the K-8 level, declined significantly since the adoption of the PA Core standards and the resulting realignment of the PSSA in the 2014-2015 school year. In Math, the decline in performance at the individual Mastery schools is much more pronounced than the decline in performance in the School District's own schools, as measured by the School District's average proficiency rate. For those schools in Mastery's system that were operating prior to the realignment of the PSSA, virtually all of them had outperformed the School District proficiency rate or average in Math prior to the realignment; after the realignment, Mastery's proficiency achievement fell below the School District proficiency rate or average, and in several cases, more than 5-10 percentage points below.

All of these observations cause the SRC to conclude that the Applicant has not met its burden of producing curricular documents that meet the standards set by the CSL and CAB. The curricular documents submitted do not evidence that the applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter 4.

C. 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 SRC 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 raises concerns, as discussed in more fully in Part B 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 SRC fully discussed its conclusions about the Charter School's proposed curriculum in Part B above and reiterates that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students in compliance with the Pennsylvania standards and requirements of Chapter 4. In addition, the Applicant did not propose any mission-specific goals as to how the Charter School would ascertain whether 8th grade graduates of the school would achieve post-secondary success.

3. 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.

The Applicant did not submit a proposed school calendar to reflect the number of school days or programming during the 2019-2020 school year.

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

The Applicant did not submit a professional development ("PD") plan that addressed how the Charter School will provide initial and ongoing training to teachers and other staff on the mission of the school and the proposed educational programming and practices of the school. No details were submitted about who would provide such PD, the resources that would be used in connection with such PD; or the knowledge and skills that would be addressed in order to implement the philosophies, systems and curricular programs 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. While the narrative identified several areas that would be addressed through PD, the Applicant never submitted a plan or calendar showing when such opportunities would occur and the specific details about the programming that would be provided or to 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 PD 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).

The circumstances presented here are unique given the significant number of Mastery schools already operating in Philadelphia. The SRC recognizes the challenges that Mastery faces in the operation of schools, particularly the Renaissance charter schools, which are the same challenges that the School District faces in the operation of its own schools. In years prior, Mastery

was viewed as a model for other public schools, which is why the Mastery network was authorized to expand in the manner that Mastery expanded previously.

The performance across the Mastery network since the 2014-2015 school year, however, has not shown the improvement that the SRC would expect, as discussed in the factual findings above. Now is not the time to expand the Mastery network further; to the contrary, now is the time for Mastery: (1) to focus on improving the existing Mastery schools for the sake of the Philadelphia students already sitting in the existing seats in the Mastery network; and (2) to focus on opening and operating Mastery Gillespie to provide students with the comprehensive learning experiences that they must have to meet the challenging Pennsylvania standards and to meet Mastery's vision to be "one of the highest performing neighborhood schools in this section of North Philadelphia, and eventually one of the highest-performing schools citywide".


Upon examination and evaluation of the deficiencies in the Application identified above, the SRC concludes that the Application should be denied.

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ORDER

For the reasons set forth above, the 2017 Application to create the Mastery Charter Elementary 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).



Joyce Wilkerson
Chair

RESOLUTION

WHEREAS, on or before November 15, 2017, the applicant for Mastery Charter Elementary School ("Applicant") submitted an application ("Application") to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school, and public hearings were held on the Application on December 18, 2017 and January 24, 2018; and

WHEREAS, Applicant is seeking a charter from the School Reform Commission ("SRC") to operate as a school starting in the 2019-2020 school year serving K-Grade 7 and a maximum enrollment of 672 students in the fifth year of the charter; so be it

RESOLVED, that, pursuant to the representations, statements and materials contained in the charter school application and concluding document submitted by Applicant and made during the public hearings by representatives for Applicant, a Charter is hereby DENIED; and be it

FURTHER RESOLVED, that the SRC adopts the attached Adjudication as the reasons for its decision; and be it

FURTHER RESOLVED, that 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).

APPENDIX A

RESOLUTION

Re: Amendment to Proposed Charter School; Mastery Charter School – Gillespie Campus

WHEREAS, on or before November 15, 2014, the applicant for Mastery Charter School – Gillespie Campus ("Mastery Gillespie" or "Charter School") submitted an application to the Charter Schools Office of The School District of Philadelphia ("School District") to start a charter school; and

WHEREAS, the School Reform Commission ("SRC") reviewed the representations, statements and materials contained in the charter school application submitted by Mastery Gillespie and made during the public hearings by representatives for Mastery Gillespie; and

WHEREAS, by Resolution SRC-24 ("SRC-24"), approved on February 18, 2015, the SRC granted a Charter to Mastery Gillespie contingent upon Mastery Gillespie meeting the conditions set forth in SRC-24; and

WHEREAS, Mastery Gillespie met the conditions in SRC-24 and by Resolution SRC-15, approved on June 18, 2015, the SRC granted a Charter to Mastery Gillespie to operate a public charter school for a three-year period commencing on July 1, 2016 and ending on June 30, 2019, contingent upon Mastery Gillespie providing on or before March 31, 2016 certain required documentation to the Charter Schools Office, in form and substance acceptable to the Charter Schools Office; and

WHEREAS, Mastery Gillespie has requested that the SRC amend the period of the term of the Charter to commence the three-year term of the Charter on July 1, 2017 rather than July 1, 2016 primarily due to Mastery Gillespie's renovations to the Charter School facility not being completed in time to open the charter school for the 2016-2017 school year; now be it

RESOLVED, that the School Reform Commission ("SRC") rescinds Resolution SRC-15, approved on June 18, 2015 in order to change the period of the term of the Charter to commence the three-year term of the Charter on July 1, 2017 rather than July 1, 2016; and be it

FURTHER RESOLVED, that the School Reform Commission hereby grants a Charter to "Mastery Charter School – Gillespie Campus" to operate a public charter school for a three-year period commencing on July 1, 2017 and ending on June 30, 2020 ("Term"), effective upon the full execution of the Charter Agreement by the School District and by the Chair of the Board of

Trustees of the Charter School or by another member of the Board or the Chief Executive Officer duly designated by the Board; and be it

FURTHER RESOLVED, that the Charter School has agreed that on or before June 30, 2017, the Charter School shall provide the following documentation ("Required Documentation") to the Charter Schools Office, in form and substance acceptable to the Charter Schools Office:

1. A certified copy of the Articles of Incorporation of the Charter School, and any amendments thereto, certified by the Secretary of State of the Commonwealth of Pennsylvania.
2. A good standing certificate for the Charter School issued by the Secretary of State of the Commonwealth of Pennsylvania.
3. A duly approved Charter Board Resolution, certified by the Secretary of the Charter Board (i) authorizing the execution and delivery of the Charter and the performance of the transactions contemplated hereby, (ii) stating that no members of the Charter Board or their immediate family will have business dealings with the Charter School, and that the Charter Board will comply with the Pennsylvania Public Official and Employee Ethics Act; and (iii) providing the names and addresses (including email addresses) of the officers of the Charter Board and stating that such persons are authorized to execute and request payments under the Charter.
4. A true, correct and complete dated copy of the Charter School's Internal Revenue Service ("IRS") Form 1023 application for recognition under Section 501(c)(3) of the Internal Revenue Code with a representation as to the date on which the IRS Form 1023 was submitted to the Internal Revenue Service or a copy of the determination letter issued by the IRS stating that the Charter School is a federally tax exempt entity as described in Section 501(c)(3) of the Internal Revenue Code.
5. An affidavit signed by the chair of the Board of Trustees, indicating that a sufficient staff, with complete and appropriate criminal and child abuse records checks, and all necessary certifications as required by this Charter and Applicable Laws (as hereinafter defined), have been hired to serve the actual enrollment of the Charter School.
6. A copy of the Charter School's Student Records Policy for the collection, maintenance, and dissemination of student records as required by 22 Pa. Code Chapter 12.
7. A copy of the signed lease or recorded deed for each facility the Charter School shall utilize during the Term of the Charter.
8. A valid Certificate of Occupancy or memorandum that a new Certificate of Occupancy is not required for use as a school, issued by the City of Philadelphia

Office of Licenses and Inspections for each facility the Charter School shall utilize during the Term of the Charter.

9. A Certificate of Insurance evidencing all required insurance coverages, satisfactory to the School District's Office of Risk Management.
10. The Statement of Assurances, and all Application appendices and attachments referred to therein.
11. Any contracts for the provision of management, consulting or similar services to the Charter School.
12. A locally developed curriculum establishing alignment with Pennsylvania standards for all grade levels to be served. Such curriculum shall include specific provisions for English as Second Language students.
13. A plan for English as a Second Language programming which complies with 22 Pa. Code Chapter 4 standards.
14. Budget documents which demonstrate that the Charter School has performed adequate financial planning for the opening and operation of the Charter School.
15. Plan documents for any 403(b) deferred compensation retirement plan for the Charter School, outlining the terms, conditions and benefits of the plan, including an employer contribution;

and be it

FURTHER RESOLVED, that the Charter School has agreed to comply with certain conditions ("Conditions") as set forth below. Failure to comply with the Conditions may be a basis for revocation or nonrenewal of the Charter School's Charter:

1. The Board of Trustees shall ensure that all trustees, officers, administrators, and relatives of trustees, officers and administrators of the Charter School comply with the Pennsylvania Public Official and Employee Ethics Act and the Pennsylvania Nonprofit Act. The Board of Trustees shall adopt a Conflicts of Interest policy that complies with the Pennsylvania Public Official and Employee Ethics Act and the Pennsylvania Nonprofit Act.
2. The Board of Trustees shall adopt an Admissions Policy and Process which complies with the Public School Code and Charter School Law and which includes provisions on application deadlines, recruitment communications, including details on methods to be used to recruit students Citywide or in an applicable attendance zone, lottery dates, and results, in a form that is acceptable to the Charter Schools Office. The Admissions Policy and Process shall provide that if seats open during the school year for grades K-6 or between school years for grades 1-6, the Charter School shall accept new students from the waiting list

in appropriate order for particular grades or new applicants if there are no applicants for that grade on the waiting list. The Admissions Policy and Process also shall provide that the Charter School shall provide a copy of its current waiting list at any time during the Term of the Charter within ten (10) business days after requested by the Charter Schools Office.

3. The Board of Trustees shall adopt Bylaws and shall provide a copy of the Bylaws and a list of names and addresses of the Board of Trustees of the Charter School to the Charter Schools Office no later than March 31, 2017. The Bylaws and the Board list shall demonstrate that none of the Board members of the Charter School serve on the Board of Trustees of Mastery Charter High School, the management company.
4. The Board of Trustees shall submit to the Charter Schools Office signed Statements of Financial Interest as required by the Public Official and Employee Ethics Act and the Charter School Law annually, pursuant to guidelines established by the Charter Schools Office.
5. The Board of Trustees shall ensure that the dates, times, and locations of scheduled Board meetings are posted on the Charter School's website. Furthermore, minutes from Board meetings shall be posted on the Charter School's website within two weeks of approval by the Board of Trustees.
6. The contract between the Charter School and the Charter School's management company, Mastery Charter High School, that accurately reflects all of the duties, services, obligations and liabilities of each party to the other with respect to the operation of the Charter School or services to be provided to the Charter School, including specific provisions on management fees, which shall be approved by the respective governing boards of each entity, in a form and of provisions that are acceptable to the Charter Schools Office.
7. The Board of Trustees shall submit to the School District by August 1st of each year during the Term of the Charter as part of the Charter School's Annual Report, or separately if not included in the Charter School's Annual Report, evidence that 75% of the Charter School's professional staff are certified in accordance with the Charter School Law.
8. The Board of Trustees shall submit to the School District by August 1st of each year during the Term of the Charter as part of the Charter School's Annual Report, or separately if not included in the Charter School's Annual Report, evidence that 100% of the Charter School's teachers with primary responsibility for direct instruction in one or more of No Child Left Behind's core academic subjects demonstrate that they satisfy the definition of a "Highly Qualified Teacher".

9. The Board of Trustees shall ensure that all employees have required federal and state criminal and child abuse background checks during the term of the Charter. The Board of Trustees shall submit a signed affidavit to the School District annually, pursuant to guidelines established by the Charter Schools Office, as evidence that the Charter School has complied with this requirement; and be it

FURTHER RESOLVED, that the School District and the Charter School acknowledge and agree that the Charter School will enroll students only in Kindergarten through grades 6 with a maximum enrollment of 503 students in the 2017-2018 school year, 532 students in the 2018-2019 school year and 588 students in the 2019-2020 school year and during any renewal term of the charter, unless the parties agree in writing to other terms. Under no circumstances will the Charter School request payment from the School District or the Commonwealth of Pennsylvania for more students than set forth herein nor enroll students in different grades, without SRC approval by resolution; and be it

FURTHER RESOLVED, that the Charter School has agreed that the Charter School shall have an admission preference for all students living in the Simon Gratz High School ("Gratz") catchment area. The Charter School first may fill open enrollment slots with students having sibling or founder preferences, as applicable. If enrollment slots are still available after admitting (i) students having sibling or founder preferences; and (ii) all applicants attending the schools in the Gratz catchment area, the Charter School shall fill the remaining slots on a random basis in accordance with Section 17-1723-A; and be it

FURTHER RESOLVED, that the Charter School has agreed that:

1. The Charter School shall participate in the School District's charter school performance framework and monitoring system as set forth in the School District charter school policies and procedures and any amendments thereto. The charter school performance framework will include annual assessments of the Charter School's academic, financial, and organizational performance. The Charter School agrees to submit to the School District all student level academic information required for assessment of academic performance as part of the charter school performance framework and monitoring system.
2. For each year during the term of the Charter, the Charter School shall seek to achieve (i) a School Performance Profile ("SPP") score of 70 or better, (ii) the Pennsylvania Value-Added Assessment System ("PVAAS") growth measure, and (iii) the Average Growth Index ("AGI") growth measure, consistent with the Pennsylvania Department of Education's Accountability System pursuant to NCLB.
3. If the Charter School achieves a ranking in the bottom two levels on the School District's charter school performance framework and monitoring system during any year of the term of the Charter, the School District shall require that the Charter School meet certain specific student achievement targets and participate in ongoing progress reporting. If the Charter School consistently achieves a ranking in the bottom two levels on the School District's charter school

performance framework and monitoring system for two consecutive years during the Term of the Charter, the School District may recommend that the SRC commence revocation or nonrenewal proceedings against the Charter School;

and be it

FURTHER RESOLVED, that no later than April 1, 2017, Mastery Gillespie may submit a request in writing to the SRC to delay the opening of the Charter School by one additional year, such that the three-year Term of the Charter would commence on July 1, 2018 and end on June 30, 2021 and such amendment to the period of the Term of the Charter must be approved in writing by the Chief of Staff of the SRC; and be it

FURTHER RESOLVED, that the Charter granted herein will not take effect until the written Charter has been issued and signed by the Chair of the SRC and the Chair of the Charter School's Board of Trustees, or another member of the Board or the Chief Executive Officer duly designated by the Board.

