

**BOARD OF SCHOOL DIRECTORS
OF THE
NORTH PENN SCHOOL DISTRICT**

Charter School Application	:	DATE OF DECISION:
	:	
	:	February 12, 2013
APPLICATION OF:	:	
Montgomery Flex Charter School	:	
	:	

**DECISION OF THE BOARD OF SCHOOL DIRECTORS
OF THE NORTH PENN SCHOOL DISTRICT**

The applicant, Montgomery Flex Charter School (hereinafter referred to as the “Applicant” or “MFCS”), has filed an application with the North Penn School District (hereinafter referred to as “District”) requesting approval to establish a charter school. The application was properly advertised and a public hearing was held before the Board of School Directors of the North Penn School District on December 3, 2012.¹ Present during the hearing were members of the Board of School Directors of the North Penn School District, members of the District Administration, the Applicant, the Solicitor for the District, the Court Reporter and members of the public.

FINDINGS OF FACT

1. The Applicant is Montgomery Flex Charter School.
2. Appearing on behalf of the Applicant at the hearing held on December 3, 2012 were Timothy Sager, Daniel Chandler, Tom Taylor and Patricia Hennessey, Esquire. [N.T. 12/3/12, p. 8-10]

¹ During the public hearing on December 3, 2012, a copy of the application was entered into the record as Exhibit 1 and the public notice of the hearing was entered in as Exhibit 2.

3. The Applicant submitted its proposal to establish a charter school to the District to be opened for the start of the 2013-2014 school year by the statutory deadline of November 15, 2012..
4. The application indicates that MFCS will be located in North Wales, PA. [Exhibit 1, p. 5]
5. The Applicant has submitted a letter of intent regarding the lease of a former fitness center located at 624 Main Street, Lansdale, PA, with HC Spectrum Partners, LP. [Exhibit 1, Appendix P]
6. The MFCS proposes to consist of students in grades 7 through 12, with a total projected enrollment of 240 students for the 2013-2014 school year. [Exhibit 1, p. 5]
7. The Applicant estimates that the payments made from the District to MFCS in each school year of operation will be: \$2,760,000.00 in 2013/2014; \$3,411,260.00 in 2014/2015; \$4,026,115.50 in 2015/2016; \$4,712,385.19 in 2016/2017 and \$5,436,207.55 in 2017/2018. [Exhibit 1, Appendix O]
8. The Applicant previously submitted a charter school application to the District in the fall of 2011. [N.T. 12/3/12, p. 12]
9. In February, 2012, the District rejected the prior MFCS application, largely on the basis that the proposed school was, by definition, a cyber charter school. [N.T. 12/3/12, p. 13]
10. On August 8, 2012, an article appeared in the local newspaper, *The Reporter*, which stated that the Applicant was planning on submitting a charter school application to the Pennsylvania Department of Education. A few days later, on August 15, 2012,

- the Applicant sent a letter to the District indicating that it was planning to organize and gain approval to exist as a cyber charter school.
11. The Applicant agreed at the hearing that the application submitted in November 2012 was a new application and not a resubmission of the application that was originally submitted in the fall of 2011. [N.T. 12/3/12, p. 31]
 12. The Applicant indicated at the hearing that they had “significantly changed [their] application” from the application that was submitted in the fall of 2011. [N.T. 12/3/12, p. 13]
 13. Included in the MFCS application were pre-enrollment forms that had been completed electronically. [Exhibit 1, Appendix M]
 14. Of the approximately 140 pre-enrollment forms submitted by the Applicant, more than half of those forms were completed prior to the Board’s rejection of the MFCS application in February 2012 and prior to the Applicant “significantly” changing its application in the fall of 2012. [Exhibit 1, Appendix M]
 15. The Applicant testified that of 151 pre-enrollments, only 107 of the students are in grades 7 through 12. [N.T. 12/3/12, p. 29]
 16. The Applicant did not produce any signed petitions or letters from community members indicating that they support the application. [N.T. 12/3/12, p. 33]
 17. The Applicant indicated through its application and through testimony that it has a goal of exceeding the Pennsylvania four year cohort average graduation rate of 78.73 percent. [Exhibit 1, p. 11; N.T. 12/3/12, p.34]
 18. The four year cohort graduation rate for the District is 94.75 percent. [N.T. 12/3/12, p. 34]

19. The Applicant agreed that its target for student graduation is lower than the District's demonstrated achievement. [N.T. 12/3/12, p. 34]
20. The Applicant indicated through its application and through testimony that it has a goal of achieving SAT scores that are comparable to or better than the scores obtained by students throughout Pennsylvania. [Exhibit 1, p. 12; N.T. 12/3/12, p.36]
21. The Applicant agreed that its target SAT scores are substantially lower than the demonstrated achievement of the District. [N.T. 12/3/12, p. 37]
22. The Applicant testified that MFCS will seek to address the problem that a large percentage of students who are attending college do not know what they want to do with their career. [N.T. 12/3/12, p. 15-22] The Applicant's proposed solution to this supposed problem is to have a higher concentration of guidance counselors from whom students will receive advice.
23. During the public comment portion of the hearing on December 3, 2012, six citizens stood up to speak. One of the speakers, Paul Edelman, openly opposed the Applicant. Two of the speakers, Alicia Pellalini and Joanne Chancellor, have children who will continue to be in elementary school for at least four more years. Another one of the speakers, Tim Quinn, has children who attend Catholic schools. Only two of the speakers, Catherine Connolly and Kathleen McNamarey, have children who are currently attending the District's schools and will be eligible to attend MFCS at the start of the 2013/2014 school year. [N.T. 12/3/12, p. 78-98]

CONCLUSIONS OF LAW

1. The Applicant has failed to demonstrate that its application conforms to the legislative intent of Pennsylvania's Charter School Law.
2. The Applicant has failed to demonstrate sustainable support for the charter school plan by teachers, parents, other community members and students.

DISCUSSION, REASONS FOR DENIAL AND DESCRIPTION OF DEFICIENCIES

(a) The Applicant Failed to Demonstrate that its Application Conforms to the Legislative Intent of Pennsylvania's Charter School Law.

Section 1717-A(e)(2)(iii) of the Pennsylvania Charter School Law ("CSL") requires charter school applications to be evaluated by the local school board based on criteria that shall include the extent to which the application "conforms to the legislative intent outlined in section 1702-A." 24 P.S. § 17-1717-A(e)(2)(iii). Looking to Section 1702-A, the General Assembly's intent in enacting the CSL was to:

"provide opportunities for teachers, parents, pupils and community members to establish schools that operate independently from the existing school district structure as a method to accomplish all of the following: (1) improve pupil learning; (2) increase learning opportunities for all pupils; (3) encourage the use of different and innovative teaching methods; (4) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (5) provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and (6) hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems."

The application that was submitted not only fails to demonstrate that MFCS would accomplish the goals of the CSL, it actually proposes to do the exact opposite of what the CSL envisions. Instead of improving pupil learning and increasing student achievement within the

North Penn School District, MFCS seeks to lower the bar by setting its target goals for student graduation rates and student SAT scores substantially lower than the demonstrated achievement of the District. [Exhibit 1, p. 11-12; N.T. 12/3/12, p. 34-36] In addition to failing to conform with the stated purpose of the CSL, the student performance target goals contained in the application strongly suggest that the Applicant lacks an understanding of the population it is proposing to serve. Not only does the Applicant seem to lack an understanding of the North Penn community, the Applicant appears to lack an understanding of the federal No Child Left Behind Act (“NCLB”), as is evidenced by the fact that its four year cohort average graduation rate target of 78.73 percent is below the four year cohort graduation rate target of 80 percent as is required to make Adequate Yearly Progress under NCLB.

In its testimony during the hearing, the Applicant pointed to the problem that a large percentage of students who are attending college do not know what they want to do with their career. [N.T. 12/3/12, p. 15-22] The application also made reference that “nationwide, only 42% of young people who enroll in college complete a bachelor’s degree by age 26.” [Exhibit 1, p. 7] According to the Applicant, the “unique proposition” of MFCS is that it will have a higher concentration of guidance counselors to students than the District’s high school provides [N.T. 12/3/12, p. 15] As further evidence of its ignorance with regard to the community it is seeking to serve, the Applicant based its arguments on national statistics and did not point to any evidence to suggest that students who graduate from the District are unsure of what they want to do with their careers. To this point, the District’s data shows that approximately eighty percent of the its graduates attend college within one year of finishing high school, and about eighty-five percent of those student persist into a second year. The Applicant’s stated purpose of producing high

school graduates who know what they want to do in life is, again, not something even contemplated by the CSL as a purpose for creating charter schools.

(b) The Applicant Failed to Demonstrate Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students

Section 1717-A(e)(2)(i) of the CSL directs school districts to evaluate, as one of several factors, a charter school application on the basis of whether there has been “demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing.” 24 P.S. § 17-1717-A(e)(2)(i). Because the Applicant has not demonstrated the amount of support that is necessary to sustain a charter school, the Board is denying the application.

According to guidance from PDE, sustainable support can be demonstrated by signed petitions of support, letters of support, testimonials of support or in other concrete ways. *Charter Schools*, Basic Education Circular (Issued 10/1/2004). Furthermore, the District is required to analyze the support provided by various groups in the aggregate as opposed to each individual group. Brackbill v. Ron Brown Charter School, 777 A.2d 131, 138 (Cmwlth. 2001). With regard to MFCS, the only evidence of support that was submitted was a list of pre-enrollments and six citizens who spoke in favor of MFCS during the public comment portion of the hearing on December 3, 2012.

In its application, MFCS included approximately 140 pre-enrollment forms that were submitted online as evidence of community support. [Exhibit 1, Appendix M] Of those 140 pre-enrollments, however, more than half were completed prior to the Board’s rejection of the MFCS application in February 2012. This is noteworthy because, according to MFCS, the application that was submitted in November 2012 is significantly changed from the application that was

submitted in the fall of 2011. [N.T. 12/3/12, p. 13] Whereas the school that was proposed in 2011 relied heavily on computer-based online instruction, the current application utilizes classroom teachers and distinguishes itself from the District's high school on the basis of its counselor-to-student ratio, not on its ability to more-effectively meet students' individual needs through technology. In fact, the Applicant even informed the District as recently as August, 2012, that it was planning to submit an application to the state in order to gain approval as a cyber charter school. Thus, the District views the value, in terms of demonstrating support, of the pre-enrollments received prior to February 2012 as negligible due to the fact that the structure of the school that was being proposed radically changed subsequent to that date.

In terms of support by teachers, not only was there no documentation or testimony presented to the Board to suggest that there are any current North Penn School District teachers who support the creation of the school, there wasn't even a hint of interest on the part of non-District teachers with regard to teaching at MFCS. While charter school applicants are certainly not required to produce a finalized list of school staff, the lack of any interested employees at all, aside from Mr. Sager, is concerning.

As noted earlier, of the five citizens who spoke in favor of the Applicant during the public comment portion of the hearing, only two of them even have a student attending a District school who would be eligible to attend MFCS in the 2013-2014 school year. In a prior CAB decision, Arts and 3 R's Inc. d/b/a Helen Murray Charter School for the Arts, CAB 2005-5, the Appeal Board found that an applicant who had only six individuals (one more than in the present matter) testify in its favor at the hearing had not demonstrated sustainable support.

Lastly, of the eight founding coalition members listed in the MFCS application, only two of these individuals, Mr. Sager and Dr. Chandler, were present for the hearing on 12/3/12.

(Exhibit 1, p. 71-74) Furthermore, none of the founding coalition members who reside in the District were present at the hearing.

Viewing the demonstrated support for MFCS in the aggregate, the Board finds that there is insufficient evidence of sustainable support for the proposed charter school. In terms of the key constituencies mentioned in the CSL (i.e. teachers, parents, other community members and students), neither the hearing nor any other documentation from MFCS provided evidence of strong support from any of these groups.

DECISION

For the reasons set forth in this Decision, the Board of Directors of the North Penn School District, by a vote of ____ to ____, hereby denies the charter school application submitted by Montgomery Flex Charter School.

Dated: _____

VINCENT SHERPINSKY, President
North Penn School Board

In accordance with law, copies of this Decision shall be sent forthwith to the following:

Via U.S. Mail and Email:

Montgomery Flex Charter School
c/o Timothy C. Sager
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Via U.S. Mail:

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