THE SCHOOL DISTRICT OF PHILADELPHIA

BOARD OF EDUCATION PUBLIC MEETING AGENDA

MARCH 3, 2022

Call to Order - Joyce S. Wilkerson, President

Roll Call

Presentations

- Charter School Office Presentation
  Charter Schools - Other

Written Testimony

Registered Speakers on General Topics

- General Speakers List

Action Item

1. Application for New Charter School: ASPIRA Bilingual Business, Finance and Technology Charter High School (Updated 3.7.2022)
   Board of Education - Other
2. Application for New Charter School: ASPIRA Eugenio Maria de Hostos Preparatory Charter School (Updated 3.4.2022))
   Board of Education - Other
3. Application for New Charter School: Philadelphia Entrepreneurial Development Academy Charter High School (Updated 3.4.2022)
   Board of Education - Other

Adjourn

Email: schoolboard@philasd.org
Twitter: @PHLschoolboard | Facebook: @PHLschoolboard

Presentations - •

Title: Charter School Office Presentation

Board of Education Meeting Date: 3/3/2022

Office Originating Request: Charter Schools

ATTACHMENTS:

Description	Type
Charter School Office Presentation	Supporting Document

THE SCHOOL DISTRICT OF PHILADELPHIA

2021-22 New Charter Applications

Charter Schools Office

March 3, 2022

Timeline

Event	Date
Application Release	September 2021
Information Sessions	September - October 2021
Letters of Intent Due	October 15, 2021
Applications Due	November 15, 2021
Public Hearings	December 21, 2021 January 24 - 25, 2022
Board Action	March 3, 2022

Pursuant to the Charter School Law, the Board of Education shall vote to deny or approve a charter application at a public action meeting no later than 75 days after the first public hearing on the application.

Submitted Applications

School Name	Proposed Enrollment				
	2022-23	2023-24	2024-25	2025-26	2026-27
ASPIRA Bilingual, Business, Finance, and Technology Charter High School (9-12)	600	900	1,200	1,200	1,200
ASPIRA Eugenio Maria de Hostos Preparatory Charter School (K-8)	690	805	920	1,035	1,035
Philadelphia Entrepreneurial Development Academy Charter High School (9-12)	300	450	500	550	600
Total	**1,590**	**2,155**	**2,620**	**2,785**	**2,835**

What the Charter Schools Office looks for

Academic: Comprehensive curricular materials for all grades and subjects to be taught Year 1.

Organizational Capacity: A founding coalition that includes appropriate expertise required to open and operate a charter school in Pennsylvania. Proposed policies that are aligned with applicable local, State, and Federal regulation. If partnering with a CMO, a management agreement that ensures the school receives appropriate support while maintaining autonomy.

Community Engagement: Meaningful engagement with the local community, demonstrated support from local community, and Letters of Intent signed by parents/guardians indicating they would enroll their children in the school upon its opening.

Finance: A credible and viable budget that ensures stability by making appropriate investment in resources and staffing.

Facilities: A facility that would be leased or purchased and would be prepared to be an appropriate and safe learning environment in time for the proposed school opening date.

Existing Operator (when applicable): Applicant has a clear track record of academic success, organizational compliance, independent board governance, and financial viability.

ASPIRA Bilingual, Business, Finance and Technology Charter High School

Mission: *The ASPIRA Bilingual Business, Finance, and Technology Charter High School envisions a supportive and inclusive school environment where all our graduates develop the academic and professional expertise to be successful in their post-secondary life regardless of their intention to join the workforce, military, attend a trade school or college. Students at our school will experience a responsive and inclusive bilingual and career oriented curriculum.*

Management Company: ASPIRA Inc. of Pennsylvania

Location: 6301 N. 2nd Street, Philadelphia, PA 19120

Enrollment Preferences: 19120, 19134, and 19140

Grade	9	10	11	12	Total
2022-23	300	300			**600**
2023-24	300	300	300		**900**
2024-25 (Scale)	300	300	300	300	**1,200**

ASPIRA Tech – Key Findings

Academic: The submitted curriculum failed to demonstrate that all required PA Core and Academic Standards would be taught. Although the proposed Charter School would implement a bilingual program and CTE coursework, neither area was sufficiently developed within the application.

Organizational Capacity: The proposed management agreement would give ASPIRA significant control of the charter school, including being the direct employer of the majority of school based staff. If approved, the leadership team would consist of individuals who currently or previously served on the leadership team of Olney Charter High School ("Olney").

Community Engagement: 138 letters of intent were submitted for students who appear to be grade/age eligible for grades served in Year 1, equating to only 21 percent of the proposed Year 1 enrollment. Some forms were gathered in 2020 and the Applicant has not demonstrated that the students are still interested in enrolling in August 2022.

ASPIRA Tech – Key Findings (continued)

Finance: The Application contained numerous inconsistencies related to anticipated per-pupil funding for both special education and non-special education students, anticipated special education percentage, and salary increases. As a result, it is difficult to determine if the submitted budget was both balanced and viable.

Facilities: The proposed Charter School would lease space within a facility currently owned by ASPIRA. There is misalignment in proposed square footage between the proposed lease and the budget.

Existing Operator: Of the four brick and mortar charter schools the Applicant currently operates in Philadelphia, two, Olney Charter High School ("Olney") and John B. Stetson Charter School ("Stetson"), have been nonrenewed by the Board of Education due to issues related to Academic Success, Organizational Compliance and Viability, and Financial Health and Sustainability. The Olney and Stetson nonrenewal decisions have been appealed by the charter schools to the State Charter School Appeal Board.

ASPIRA Eugenio Maria de Hostos Preparatory Charter School

Mission: *Our mission is to provide a bilingual, bicultural, academically rigorous program in English and Spanish that enables students to achieve their maximum potential in all aspects of life. Through cultural and community experiences, our students discover their potential, achieve readiness for college and careers, and succeed in a safe and caring environment.*

Management Company: ASPIRA Inc. of Pennsylvania

Location: 4322 N. 5th Street, Philadelphia, PA 19140

Enrollment Preferences: 19120, 19134, and 19140

Grade	K	1	2	3	4	5	6	7	8	Total
2022-23	115	115	115	115	115	115				**690**
2023-24	115	115	115	115	115	115	115			**805**
2024-25	115	115	115	115	115	115	115	115		**920**
2025-26 (Scale)	115	115	115	115	115	115	115	115	115	**1,035**

Hostos Prep – Key Findings

Academic: The submitted curriculum failed to demonstrate that the proposed Charter School would teach all required Pennsylvania Core and Academic Standards. Further, beyond the integration of a Spanish Language Arts addition to the curriculum, the Applicant did not demonstrate elements of a dual-language model across multiple core subjects, as alluded to in the Application.

Organizational Capacity: The proposed management agreement would give ASPIRA significant control of the charter school, including being the direct employer of the majority of school based staff. Per the terms of the management agreement, the school principal would have no supervisory relationship over these staff members, exposing a challenge in developing a cohesive school culture. Further, the Application includes numerous inconsistencies regarding critical climate and culture staff positions.

Community Engagement: The Applicant included letters of intent to enroll from approximately 500 students for Year 1 (73%). Some forms were gathered in 2020 and the Applicant has not demonstrated that the students are still interested in enrolling in August 2022.

Hostos Prep – Key Findings (continued)

Finance: The Applicant failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including identifying multiple regular and special education per-pupil rates, assuming varying special education rates, and assuming salary increases that differ between 1.5 percent annually and 2 percent every other year.

Facilities: The Applicant proposes to operate within a facility currently owned by ASPIRA, the proposed Management Company. The Applicant states intent to relocate to another, unidentified facility during the first charter term.

Existing Operator: Of the four brick and mortar charter schools the Applicant currently operates in Philadelphia, two, Olney Charter High School ("Olney") and John B. Stetson Charter School ("Stetson") have been nonrenewed by the Board of Education due to issues related to Academic Success, Organizational Compliance and Viability, and Financial Health and Sustainability. The Olney and Stetson nonrenewal decisions have been appealed by the charter schools to the State Charter School Appeal Board

Philadelphia Entrepreneurial Development Academy Charter High School

Mission: *To educate inner city youth in Philadelphia to define life on their own terms, through real world business and technological schooling, programs, and mentoring opportunities to be prepared for life after high school.*

Management Company: None

Location: 5210-18 N. Broad Street, Philadelphia, PA 19140

Enrollment Preferences: None

Grade	9	10	11	12	Total
2022-23	100	100	100		**300**
2023-24	150	100	100	100	**450**
2024-25	150	150	100	100	**500**
2025-26	150	150	150	100	**550**
2026-27 (scale)	150	150	150	150	**600**

PhilaEDA – Key Findings

Broad Issues:

- Numerous sections of the submitted Narrative, including responses in Academic Program, Organizational Capacity and Compliance, and Community Engagement, Support, and Impact are copied from a New Charter Application submitted by ASPIRA, Inc. of Pennsylvania (“ASPIRA”) for ASPIRA Bilingual Business, Finance, and Technology Charter High School (“ASPIRA Tech”) in November 2020. This Application was denied by the Board of Education in March 2021.

- The Finance Section of the submitted Narrative is copied from a new charter application submitted for Pride Academy Charter School (“Pride” or “PACS”) in November 2020. This Application was denied by the Board of Education in March 2021.

- The submitted code of conduct was copied from Franklin Towne Charter High School's Code of Conduct.

PhilaEDA – Key Findings

Academic: The Application does not include a comprehensive set of curricular materials. Rather, the Applicant submitted a 32-page attachment with brief course descriptions for 64 courses it intends to offer.

Organizational Capacity: There are internal inconsistencies throughout the Application, specifically when describing staffing plans. The founding coalition does not have experience launching a charter school in Pennsylvania nor does the lead applicant have an school leadership experience or credentials.

Community Engagement: The Applicant's assessment of the needs of the targeted community and strategy for engaging local stakeholders and the recruitment of students is copied from ASPIRA Tech's 2020-21 Application. The Applicant states that feedback from the community and families, in particular, have been demanding but no intent to enroll forms were submitted. Eight documents of Community Support were submitted; however, only one document has a Philadelphia address.

Finance: The proposed budget includes inconsistencies and is missing items when compared to the documentation in the rest of the Application. The budget relies on unrealistic assumptions regarding revenue.

Facilities: The Applicant proposes to lease a building owned by Our Lady of Hope Parish in conjunction with the Archdiocese of Philadelphia and formerly used by Cristo Rey High School. The Applicant provides a lease proposal for the facility. The facility is suitable for the proposed grades and enrollment at-scale.

Existing Operator: N/A


THE SCHOOL DISTRICT OF
PHILADELPHIA

Registered Speakers on General Topics - •

Title: General Speakers List

Board of Education Meeting Date: 3/3/2022

Office Originating Request: Board of Education

ATTACHMENTS:

Description	Type
General Registered Speakers List	Supporting Document

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION
ACTION MEETING
SPEAKERS LIST
MARCH 3, 2022

Registered Speakers

1. Lynda Rubin, Community Member
   Topic: New Charter Application: ASPIRA

2. Deborah Grill, Community Member
   Topic: New Charter Application

3. Barbara Dowdall, Community Member
   Topic: New Charter Application

4. Lisa Haver, Community Member
   Topic: New Charter Application: ASPIRA

5. Symbol Lai, Community Member
   Topic: New Charter Application

Action Item - 1.

Title: Application for New Charter School: ASPIRA Bilingual Business, Finance and Technology Charter High School (Updated 3.7.2022)

Board of Education Meeting Date: 3/3/2022

WHEREAS, on or before November 15, 2021, the applicant for ASPIRA Bilingual Business, Finance and Technology Charter High 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 21, 2021 and January 25, 2022; and

WHEREAS, Applicant is seeking a charter from the Board of Education ("Board") to operate as a school starting in the 2022-2023 school year and serving at scale by the 2024-2025 school year Grades 9-12 with a maximum enrollment of 1,200 students; so be it

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 Board 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)

Office Originating Request: Board of Education

ATTACHMENTS:

Description	Type
Final Adjudication	Supporting Document

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION

IN RE: ASPIRA BILINGUAL BUSINESS, FINANCE, AND TECHNOLOGY CHARTER HIGH SCHOOL

2021 CHARTER SCHOOL APPLICATION

ADJUDICATION

The Board of Education ("Board") adopts this Adjudication regarding the 2021 Charter School Application ("Application") filed with The School District of Philadelphia ("School District") by the Applicant for the ASPIRA Bilingual Business, Finance, and Technology Charter High School ("Proposed Charter School" or "ASPIRA Tech"). 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 Board currently authorizes 85 operating charter schools serving more than 67,000 students.
3. The Charter Schools Office ("CSO") assists the Board and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting 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 Philadelphia.

4. On or around November 15, 2021, the School District received the Application filed by the Applicant. (BBFT000001-BBFT011835).[1]

5. The Board appointed a Hearing Officer to preside at the hearings to be held on all of the new charter 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 Board 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 Officer consistent with law.

6. Two public hearings were held on the Application, the first occurring on December 21, 2021, and the second occurring on January 25, 2022. The public hearings were each stenographically recorded. All references to the Notes of Transcript are to the January 25, 2022 hearing unless specifically noted otherwise.

7. Supplemental materials were not accepted by the School District. Potential applicants were informed in the "Application Components and Guidelines For Submitting A New Charter School Application For Charter Schools Seeking To Open In The 2022-2023 School Year" form ("Application Form") published by the School District at https://drive.google.com/file/d/1rPbZ6ZXhRyBvq_kY4uW-48RMhdz_Fbow/view, as follows:

[1] "The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "BBFT".

> Applications must be complete upon initial submission. No supplementary materials will be accepted or considered after submission of the application. All documents, policies, and procedures submitted should be specific to the proposed charter school . . ."

8. Applicants were also reminded at the December 21st hearing that the School District "was not accepting supplemental materials as part of the hearing process and that each application should have been complete at the time of its submission. (12/21/21 N.T. 9).

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

   a. The Application including all submitted attachments, marked as Exhibit 1 (BFTT000001-BBFT011835);

   b. A PowerPoint submitted by the Applicant at the first hearing, marked as Exhibit 2 (BBFT011836-BBFT011855);

   c. A list of public commenters from the December 21st hearing, marked as Exhibit 3 (BBFT011856);

   d. The CSO's written Evaluation Report, marked as Exhibit 4 (BBFT011857-BBFT012828);

   e. The CSO's revised written Evaluation Report, marked as Exhibit 4a (BBFT012829-BBFT013800)

   f. Written public comments received by the January 29, 2021 public comment deadline established by the School District (BBFT013801-BBFT13809);

   g. Transcripts from the hearings held on December 21, 2021 and January 25, 2021 (BBFT013810-BBFT014084); and

h. The School District's Application Form found at https://drive.google.com/file/d/1rPbZ6ZXhRyBvq_kY4uW48RMhdz_Fbow/view .

General Information

10. The Application was filed by ASPIRA Inc. of Pennsylvania ("ASPIRA" or "Applicant") for a charter to be granted to ASPIRA Tech to provide a bilingual business, finance, and technology charter high school with a career and technical education ("CTE") focus.

11. ASPIRA is a Philadelphia based community non-profit that currently provides educational management services to four brick and mortar charter schools authorized by the Board: Antonia Pantoja Charter School ("Pantoja"); Eugenio Maria De Hostos Charter School ("Hostos"); Olney Charter High School ("Olney"); and John B. Stetson Charter School ("Stetson"). ASPIRA also is the management company for one cyber charter school authorized by the Pennsylvania Department of Education ("PDE"): ASPIRA Bilingual Cyber Charter School.

12. In October 2019, after public hearings and receipt of public comment, the Board nonrenewed the charters of Olney and Stetson and adopted the Hearing Officer's Reports and Supplemental Reports as the reasons for the decisions. *See* Board of Education Action Item #35, *Re: John B. Stetson Charter School; an ASPIRA, Inc. of Pennsylvania School – Nonrenewal of Charter* (October 17, 2019); Board of Education Action Item #34, *Re: Olney Charter High School – Nonrenewal of Charter* (October 17, 2019) (CSO Report at pp. 3, 26,42-43)(BBFT012831, BBFT012854-55, BBFT012870-71, BBFT013069-BBFT013071, BBFT013433-BBFT013763). The grounds for nonrenewal for Olney and Stetson were rooted in failures related to academic success, organizational compliance and

viability, and financial health and sustainability. *Id.* Olney and Stetson each have appealed the nonrenewal decisions to the State Charter School Appeal Board ("CAB"). On February 15, 2022, CAB affirmed the nonrenewal of the Olney and Stetson Charters.

13. ASPIRA Tech plans to open in the 2022-2023 school year (Year 1) and aims to serve 600 students in Grades 9-10 in Year 1. (Fact Sheet, p.1) (BBFT000001).

    a. For the 2023-2024 school year (Year 2), ASPIRA Tech projects it would serve 900 students in Grades 9-11.

    b. ASPIRA Tech projects it would scale in the 2024-2025 school year (Year 3) and serve 1,200 students in Grades 9-12.

    c. ASPIRA Tech projects it would continue to serve 1,200 students in the 2025-2026 (Year 4) and 2026-2027 (Year 5) school years.

14. ASPIRA Tech would be located at 6301 N. 2nd Street Philadelphia, PA 19120, a building owned by ACE/Dougherty, LLC (ACED), a single member limited liability company controlled by ASPIRA. (Fact Sheet, p. 1) (BBFT000001).

15. ASPIRA Tech would admit students citywide with an admission preference for students residing in the Kensington and Olney catchments. (Narrative, p.3) (BBFT000005).

16. The proposed lease for the premises is with ASPIRA. (Attachment 41, Intent to Lease or Purchase) (BBFT011071-BBFT011118).

Sustainable Support

17. The Applicant submitted Letters of Intent in an effort to demonstrate sustainable support for ASPIRA Tech. (Attachment 32, Intent to Enroll Forms) (BBFT009200-BBFT009501).

18. Of the submitted Letters of Intent, only 138 students would be eligible for grades 9-10 served in Year 1, equating to 21 percent of the proposed Year 1 enrollment. (CSO Report, p. 3) (Attachment 32, Intent to Enroll Forms) (BBFT-009200-BBFT009501).

19. The Applicant claims that demand for ASPIRA Tech can be inferred through increases in enrollment at Olney, a separate charter school managed by the Applicant. (CSO Report, p. 2)(BBFT012830).

20. The Board received five written comments in opposition to the Application. (BBFT013801-BBFT013809)

Governance Structure

21. The Incorporator of ASPIRA Tech is Alfredo Calderon, Chief Executive Officer of ASPIRA. (Attachment 6, Articles of Incorporation, p. 2) (BBFT008477).

22. On ASPIRA Tech's Articles of Incorporation, Mr. Calderon listed ASPIRA's headquarters as his address. (Attachment 6, Articles of Incorporation, p. 2) (BBFT008477).

23. ASPIRA submitted a proposed Master Service Level Agreement ("Management Agreement") it intends to enter into with ASPIRA Tech. (Attachment 11, Charter Management Organization Agreements) (BBFT008520-BBFT008554).

24. The proposed Management Agreement provides ASPIRA with responsibility to oversee all aspects of ASPIRA Tech's non-instructional operations. (Attachment 11, Charter Management Organization Agreements, pp. 2-3, 24-34) (BBFT008521-BBFT008522, BBFT008543-BBFT008553).

25. The level of service provided under the Management Agreement can be unilaterally decreased by ASPIRA based on outside factors beyond ASPIRA Tech's control, which thereby places the risk of such factors completely on ASPIRA Tech. (Attachment 11, Charter Management Organization Agreements, Section 4.5, p. 6) (BBFT008525).

26. In addition to the Management Agreement, ASPIRA also submitted a Staffing Agreement ("Staffing Agreement")(Attachment 12, CMO Network Staffing)(BBFT008627-BBFT008654) and Lease Agreement ("Attachment 41, Intent to Lease or Purchase)(BBFT011071-BBFT011118) for the use of the facility.

    a. Counsel for ASPIRA drafted the Staffing Agreement and the Lease Agreement.

    b. The Staffing Agreement, Management Agreement and the Lease Agreement are essentially form agreements that ASPIRA has executed with other ASPIRA-managed schools. (N.T. 56:2-57:24)(N.T. 84:6-12).

    c. There has never been a negotiated change to the Lease Agreement by any ASPIRA-managed school. (N.T. 56:22-57:19)

    d. The only identified funds available to ASPIRA Tech to pay for its own independent review of the Staffing Agreement and the Lease Agreement by its own counsel is a donation from ASPIRA. (Notes of Transcript for hearing for Eugenio Maria de Hostos Preparatory Charter School ("Hostos Prep N.T.") at Hostos Prep N.T. 105:14-108:10).[2]

27. The proposed charter school leader is James Thompson, current Principal of Olney, an ASPIRA-managed charter school. (Fact Sheet. p. 1) (BBFT000001). Mr. Thompson has no Pennsylvania certifications in career and technical education. (N.T.110:24-111:2)

28. Regarding the proposed Board of Trustees of ASPIRA Tech, only seven of eight possible members have been identified.

    a. One member of the proposed Board of Trustees (the PTO parent member) cannot be identified until several months after a charter is obtained. (N.T. p. 30).

[2] The parties stipulated that testimony in the hearing held the same day on the application for another proposed ASPIRA-managed charter school (Hostos prep) could also be cited in this proceeding. (N.T. 11:18-13:7)

29. ASPIRA handpicked the identified members of the proposed Board of Trustees.

a. Two of proposed Board members, Daisy Rosa and Walter Yakobosky (N.T. 36), are members of the founding board of ASPIRA Tech along with Mr. Calderon and Ana Benitez, who serves as Vice Chairperson of ASPIRA's Board of Directors. (Narrative, p. 60) (BBFT000062).

b. One proposed Board member, Walter Yakobosky, works for a "partner" of ASPIRA, Energy Coordinating Agency of Philadelphia, Inc. (Attachment 7, Board Resumes) (BBFT008492).

c. None of the proposed Board members live or work in the catchment area.(Attachment 7, Board Member Resumes) (BBFT008479-BBFT008503).

i. One proposed Board member, Sean Harrigan, neither lives nor works in Pennsylvania. (BBFT008485-BBFT008489).

d. Notably, none of the proposed Board members have any experience in public education or with respect to founding a charter school. (Attachment 7, Board member Resumes) (BBFT008479-BBFT008503).

30. The proposed four Board members will presumably make the initial key decisions as to the terms and conditions of the following:

i. The Management Agreement with ASPIRA,

ii. The Staffing Agreement with ASPIRA, and

i. The Lease Agreement with ASPIRA.

(N.T. 38:17-39:8) (N.T. p. 106).

31. Notably, all ASPIRA-managed schools use the same auditor (N.T. 77:20-79:12) and the same lawyers (N.T.142:20-N.T. 143:7) creating at least an inference that each ASPIRA-managed school is not selecting its key professionals independently of ASPIRA.

Financial Operations and Budget

32. The Management Agreement provides ASPIRA with responsibility to oversee all aspects of the Proposed Charter School's non-instructional operations; however, the agreement does not detail the costs associated with this relationship. The Management Agreement only pays for costs associated with C-level staff and intellectual property. As a result, ASPIRA Tech must pay ASPIRA for costs associated with all personnel hired by ASPIRA. (CSO Report, p. 2)(BBFT012830) (Attachment 11, Charter Management Organization Agreements) (BBFT08520-BBFT008554).

33. Under the Management Agreement, ASPIRA Tech must pay ASPIRA a $53,000 deposit before ASPIRA will render any service, and ASPIRA will hold this deposit through the end of the agreement. This deposit will be presumably funded by an ASPIRA donation. (Attachment 11, Charter Management Organization Agreements, p. 6) (BBFT08525).

34. In addition to the Management Agreement deposit, the ASPIRA Staffing Agreement requires a $433,656 deposit (which has no apparent source of funding) before any services are rendered. This deposit would also be held by ASPIRA until the end of the agreement. (Attachment 12, CMO Network Staffing, p. 7) (BBFT008633).

35. The rates set forth in the Staffing Agreement are subject to increase or decrease upon notice by ASPIRA to ASPIRA Tech based on market conditions beyond the control of ASPIRA Tech, which places the market risk entirely on ASPIRA Tech. (Attachment 12, CMO Network Staffing, p. 8-9) (BBFT008634-BBFT008635).

36. For staffing, a review of fees demonstrates inconsistency across existing ASPIRA-managed charter schools with the proposed budget for ASPIRA Tech regarding the same positions. (CSO, p.2) (BBFT012830).

    a. The unjustified variation in fees across existing ASPIRA-managed charter schools and inconsistency with the salaries in the Application raise significant questions regarding the extent to which ASPIRA Tech is being charged a fair staffing rate for personnel in comparison to the other ASPIRA-managed charter schools.

37. Under the ASPIRA Tech Bylaws, two trustees may approve expenditures up to $5,000 without Board approval. (Attachment 9, Board By-laws, Section 3.1, h) (BBFT008506).

38. The Applicant failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, as follows,

    a. The Applicant assumed that the percentage of special education students to total students enrolled in ASPIRA Tech to range between 20% and 25 %.

    b. The Applicant applied various square footage amounts to calculate its yearly rental costs although the square footage of the leased space is 45,000 square feet. (Narrative, p. 103) (BBFT000105) (Attachment 34, Budget, p. 23) (BBFT009531)

Staffing

39. ASPIRA Tech has no real ability to terminate or not renew the Staffing Agreement.

40. According to the Management Agreement and Organization Chart (which appears to be a one-size-fits-all for all ASPIRA-managed charter schools) direct employees of ASPIRA Tech are limited to the Principal, Assistant Principal(s), Lead Administrative Assistant, Classroom Teachers, Counselors, and Teacher Aides. (CSO Report, p. 2) (BBFT012830)

(Attachment 8, Organizational Chart) (BBFT008504). Most other key non-teaching positions will be staffed by ASPIRA employees (N.T.48:22-52:6). Even Mr. Thompson, the proposed chief school administrator will be primarily relying on an ASPIRA employee (ASPIRA's Chief of educational Support Services) to make sure he is "meeting the expectations of the community and the board through their eyes." (N.T.77:13-15).

41. The remaining roles, including all school climate and culture staff would be employees of ASPIRA.

    a. Many of the personnel relied upon by Mr. Thompson to establish and maintain school culture also work for, and report to, ASPIRA, including the following: Special Programs Coordinator, Director of Specialized Services, Crisis Counselor, Intervention Coordinator, and Compliance Coordinator. (N.T. 64:17-66:12) (CSO Report, p.18, 27)(BBFT012846, BBFT012855).

42. According to the terms of the Management Agreement, the Principal would have no supervisory relationship over school climate and culture staff, exposing a challenge in developing a cohesive school culture. (Attachment 11, Charter Management Organization Agreements, Section 2.2, p.3) (BBFT008521).

43. ASPIRA "shall be solely responsible for the recruitment, qualification and training of all such staff."(Attachment 11, Charter Management Organization Agreements, Section 2.2, p.2)(Attachment 12, CMO Network Staffing, Section 2.3, p. 2-3) (BBFT008521-BBFT008522).

    a. In conjunction with this and other terms of the Staffing Agreement, ASPIRA Tech lacks the ability to recruit, hire, supervise, manage (other than be able to provide "reasonable direction") and fire (Attachment 12, CMO Network Staffing,

Section 2.4-2.5, p. 3-4) (BBFT008629-BBFT008630) the majority of ASPIRA Tech's staff, with that responsibility falling to ASPIRA. ASPIRA Tech can only request that certain staff not be assigned to the Proposed Charter School if ASPIRA Tech can provide good cause to ASPIRA.

44. Further, a number of critical climate and culture roles are missing from the staffing table and budget: Special Programs Coordinator, Director of Specialized Services, Crisis Counselor, Intervention Coordinator, and Compliance Coordinators. It is unclear how school culture and climate would be impacted by the absence of these roles.

45. The Confidentiality section of the Management Agreement requires employees of ASPIRA Tech to sign confidentiality agreements and does not acknowledge that certain information and records of ASPIRA Tech may be subject to requirements under the Federal Education Rights and Privacy Act ("FERPA") and the Pennsylvania Right to Know Law.

Curriculum

46. Although the Applicant provides a clear rationale for its curriculum choices, the Applicant failed to demonstrate that ASPIRA Tech would teach required PA Core and Academic Standards, according to the proposed curriculum. (CSO Report, pp. 2, 5)(BBFT012830, BBFT012833).

47. The Applicant also did not submit a comprehensive set of curricular materials to demonstrate that ASPIRA Tech would meet grade level requirements as required by Chapter 4, Title 22 of the Pennsylvania Code. (CSO Report p. 5) (BBFT012833).

48. The CSO reviewed the curriculum submitted by the Applicant to determine if the materials submitted contained a complete curriculum and evidence of planned instruction,

and if the materials establish that the unique elements proposed by the Applicant are reflected in the submission. The CSO's "Curriculum and Educational Plan" findings on ASPIRA Tech (CSO Report pp. 5-7)(BBFT012833-BBFT012835) have been reviewed by the Board, are found to be credible and supported by the record and are hereby adopted and incorporated herein in their entirety. Highlights from those findings include the following:

a. **English Composition:** The Applicant submitted pacing guides by grade level, writing exemplars, text selections, and unit assessments. The collective set of Grade 9 and 10 documents indicated that literature standards would be assessed, something normally done by Grade 10. The materials failed to address any of the composition standards, including all aligned to Standard Area CC.1.4. Further, it failed to address all Eligible Content. The Applicant also included adapted materials of English 1-4 and ESL Curriculum. The ESL curriculum provided an explanation of units, embedded links to PA Core Standards, instructional strategies, timeframes, and vocabulary.

b. **Algebra I:** The Applicant submitted the Carnegie Learning Scope and Sequence and alignment crosswalk for Algebra 1, including lessons, essential ideas and standards aligned to the Common Core State Standards. The curricular materials failed to address the following Pennsylvania Core and Academic Standards: CC.2.1.6.E.3, CC.2.1.8.E.1, CC.2.1.8.E.4, CC.2.1.HS.F.4, CC.2.1.HS.F.5, CC.2.2.7.B.3, CC.2.2.8.B.1, CC.2.2.8.B.2, CC.2.2.8.B.3, CC.2.2.8.C.1, CC.2.2.8.C.2, CC.2.2.HS.D.3, CC.2.2.HS.D.5, CC.2.2.HS.D.6, CC.2.2.HS.D.9, CC.2.4.7.B.3, CC.2.4.8.B.1, CC.2.4.HS.B.4, CC.2.4.HS.B.5, CC.2.4.HS.B.7, A1.1.1.2.1, A1.1.1.4.1, A1.1.1.5.3, and A1.2.3.3.1.

c. **Algebra II**: The Applicant submitted the Carnegie Learning Scope and Sequence and alignment crosswalks for Algebra 2, including lessons, essential ideas and standards aligned to the Common Core State Standards. The curricular materials failed to address the following Pennsylvania Core and Academic Standards: CC.2.1.HS.F.4, CC.2.1.HS.F.5, CC.2.2.HS.D.9, CC.2.3.HS.A.10, CC.2.4.HS.B.3, and CC.2.4.HS.B.6.

d. **Physical Science:** The Applicant submitted a year at a glance and pacing guides for the Grade 9 Physical Science Curriculum. Materials were aligned to multiple grade bands of the secondary Science and Technology secondary standards, and were missing all standards contained within the following organizing categories: Organisms and Cells (3.1.A), Genetics (3.1.B), Evolution (3.1.C), and Origin and Evolution of the Universe (3.3.B).

e. **Chemistry**: The Applicant did not submit a Chemistry Curriculum. Rather, it provided a Scope and Sequence that listed topics and standards covered. There are no resources, activities, planned instruction, or resources. As a result, it failed to demonstrate the following standards being taught: 3.1.C.A1, 3.1.C.A2, 3.1.C.A4, 3.1.C.A7, 3.1.C.B3, 3.1.C.B5, 3.1.C.B6, 3.1.C.C.2, 3.1.C.C4, 3.2.C.A3, 3.2.C.A5, 3.2.C.A6, 3.2.C.B2, 3.2.C.B3, 3.2.C.B7, 3.3.C.A8, and 3.3.C.B3. It also did not address the following Assessment Anchors, including all eligible content: BIO.A.2, BIO.B.2, BIO.A.4, CHEM.A.1, CHEM.B.2, and CHEM.A.2.

f. **Social Studies:** The Applicant indicates that Grade 9 social studies would be aligned to Common Core and Pennsylvania standards with emphasis on "immigration, Latin American and Asian Americans, Philadelphia history, etc." (p. 15, Narrative)(BBFT000017). Grade 10 would focus on "African American History with incorporation of Afro-Latinx history" (p. 16, Narrative) (BBFT000018). The submitted materials included pacing guides and years at a glance, with varying levels of detail on the Pennsylvania Core and Academic Standards that would be met. Below is a list of missing Standard by subject area.
    i. For US History 1850-Present, the following Standard Areas and embedded standards are missing: Principles and Documents of Government (5.1), Rights and Responsibilities of Citizenship (5.2), How Government Works (5.3), How International Relationships Function (5.4), Scarcity and Choice (6.1), Markets and Economic Systems (6.2), Functions of Government (6.3), Economic Interdependence (6.4), and Economic Interdependence (6.4).
    ii. For Civics and Government, the following Standards are not included: 5.1.C.A, 5.1.C.E, 5.1.C.F, 5.2.C.D, 5.3.C.B, 5.3.C.C, 5.3.C.G, 5.3.C.H, 5.3.C.I, 5.4.C.A, 5.4.C.B, 6.1.C.A, 6.1.C.C, 6.2.C.A, 6.2.C.C, 6.2.C.E, 6.3.C.C, 6.3.C.D, 6.4.C.A, 6.4.C.C, 7.1.C.A, 7.3.C.A, 8.1.C.B, 8.2.C.B, 8.2.C.C, 8.3.C.A, 8.3.C.B, 8.3.C.C, 8.3.C.D, 8.4.C.A, 8.4.C.B, 8.4.C.C, and 8.4.C.D.

    iii. For World History 1540-Present, the following Standards are not included: 5.1.W.B, 5.1.W.F, 5.2.W.A, 5.2.W.B, 5.2.W.D, 5.3.W.J, 5.4.W.C, 6.1.W.A, 6.1.W.B, 6.1.W.C, 6.2.W.A, 6.2.W.C, 6.2.W.D, 6.2.W.E, 6.2.W.F, 6.2.W.G, 6.3.W.B, 6.3.W.D, 6.4.W.A, 6.4.W.B, 6.4.W.C, 6.4.W.D, 6.5.W.E, 7.1.W.A, 7.2.W.A, 7.2.W.B, 7.3.W.A, 7.4.W.A, 7.4.W.B, 8.1.W.B, 8.1.W.C, 8.4.W.B, 8.4.W.C, and 8.4.W.D.

g. **Arts and Humanities:** The Narrative indicates that in Grade 10, students will take "Drama based on The Pennsylvania Academic Standards for the Arts and Humanities" (p. 16, Narrative). The Applicant submitted a year at a glance that contained topics and standards covered as well as pacing guides. The following Pennsylvania Core and Academic Standards were missing: 9.1.12.I, 9.1.12.K, 9.2.12.H, 9.2.12.K, 9.2.12.L, 9.3.12.C, 9.3.12.D, 9.3.12.E, and 9.3.12.G.

h. **Health, Safety, Physical Education:** The Applicant writes that students in Grade 9 will take "Health aligned to PA standards;" however, the submitted year at a glance and pacing guide failed to address the following Pennsylvania Core and Academic Standards: 10.1.9.A, 10.1.9.B, 10.1.9.C, 10.1.9.D, 10.1.9.E, 10.2.9.A, 10.2.9.B, 10.2.9.C, 10.2.9.D, 10.2.9.E, 10.3.9.A, 10.3.9.B, 10.3.9.C, 10.3.9.D, 10.4.9.C, 10.5.9.B, 10.5.9.D, and 10.5.9.E.

49. Despite the proposed Charter School's bilingual focus, the Application does not differentiate ASPIRA Tech from School District schools in this regard.

    i. There are no required credentials for any school administrators to be bilingual. (Attachment 18, School Leader Documents)(BBFT008562-BBFT008566).

    ii. There is a notable absence of goals related to the bilingual programs. (CSO Report, p. 2, 8-9)(BBFT012830, BBFT012836-37).

    iii. The academic goals established by the Applicant fail to speak to the bilingual elements of ASPIRA Tech's design. (CSO Report, p. 8)(BBFT012836).

50. Despite ASPIRA Tech's CTE focus, the Application demonstrates a very superficial commitment to a CTE program. Specific deficiencies include:

    a. School leadership lacks certifications pertinent to CTE. (Attachment 18, School Leader Documents) (BBFT008562-BBFT008566).

        i. Mr. Thompson's last experience pertinent to CTE was in New Jersey 6 years ago, and he never directly served as director of a career and technical school. (Attachment 18, School Leader Documents) (BBFT008567) (N.T.111:22-112:20).

ii. The job description for principal only requires certification and does not have any requirements related to CTE. (Attachment 18, School Leader Documents) (BBFT008562-BBFT008566).

b. There are limited CTE offerings at ASPIRA Tech, as only three pathways are offered: Business, Finance, and Graphics Communications. (Narrative, p. 6) (BBFT000008) (N.T. p. 114).

c. ASPIRA Tech fails to offer any industry recognized certifications.

i. The final program exam associated with a student's CTE pathway referenced by the Applicant is "NOCTI exam," but the applicant has not obtained approvals from PDE to be an approved CTE school. (N.T 31:22-32:4)

ii. There is no stated plan that ASPIRA is planning to apply for Perkins grant funds to support the CTE programming.

d. No partnerships have been established with respect to internships.

i. ASPIRA Tech will instead rely on third party vendors for this (primarily Niche, which employs proposed administrator Daniel LaSalle, a former ASPIRA employee).

e. ASPIRA Tech proposes no non-academic goals or assessments aligned to CTE programs. (CSO Report, p. 8-9)(BBFT012836-37).

i. Instead, the Applicant relies on a multitude of different assessments and provides no information on how staff would utilize data to drive instruction. (CSO Report, p. 9)(BBFT012837).

ii. The academic goals established by the Applicant are similar to those utilized in existing public school options in Philadelphia. (CSO Report, p. 4) (BBFT012832).

f. The Narrative lists "Business Administration, Graphic Communication, and Finance" as CTE pathways (p. 6, Narrative)(BBFT000008), but the Narrative contains minimal details about what courses would be offered in Year 2 and in later years. (Narrative, p. 10) (BBFT000012)

g. With respect to post-secondary success, students would take an Introduction to CTE course in Grade 10, but CTE instruction is primarily provided in Grades 11 and 12. (Narrative, pp.15-17) (BBFT000017-BBFT000019).

h. The proposal for promotion and retention of faculty and staff at the Proposed Charter School includes qualitative (i.e. judgment of teacher(s) and Principal) measures that have a potential for bias and potential misuse. (CSO Report, p. 10) (BBFT012838).

i. On-track School District students transferring to ASPIRA Tech would automatically need to participate in credit recovery, and in the event that they are enrolling after Grade 10, such students "will be required to participate in an intensive summer academy prior to their eleventh grade year." (CSO Report, p. 11) (BBFT012839).

Enrollment / Admissions Policy

51. The Applicant fails to describe a rationale for why it would contemplate an enrollment preference that draws students from an existing ASPIRA-managed charter school – Olney, albeit one that has had its charter revoked. (CSO Report, p.2) (BBFT012830).

Facility

52. The Application identifies 6301 N. 2nd Street Philadelphia, PA 19120 as the proposed facility for ASPIRA Tech. This facility is owned by ACE/Dougherty, LLC (ACED), a single member limited liability company controlled by ASPIRA. (Fact Sheet, p.1)(BBFT000001) (Attachment 41, Intent to Lease or Purchase)(BBFT011074).

53. While the proposed facility is suitable for school use, the space proposed is inadequate to meet the needs of the Proposed Charter School after Year 1. ASPIRA inconsistently states the size of the space being leased as well as the rent that would be paid for the facility. (CSO Report, p. 41) (BBFT012869) (Attachment 34, Budget, p.20, 23) (BBFT009528, BBFT009531)(Attachment 41, Intent to Lease)(BBFT011118).

54. ASPIRA shifts the risk to ASPIRA Tech regarding the maintenance of the facility.

    a. ASPIRA states that the maintenance of the facility is provided by ASPIRA via the Management Agreement; however, the Management Agreement states that the costs associated with said repairs are the responsibility of ASPIRA Tech. (Attachment 11, Charter Management Organization Agreement, p. 28) (BBFT008547) (Attachment 41, Intent to Lease or Purchase, p.14) (BBFT011084).

    b. The Lease Agreement states that the Tenant (who would be ASPIRA Tech) shall be responsible for the maintenance and repair of the facility, "whether such repairs be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen." (Attachment 41, Intent to Lease or Purchase, p.14)(BBFT011084). This means that the risk of expensive long-term structural damage has been shifted from ASPIRA to ASPIRA Tech.

55. Pursuant to the Management Agreement, "Title to any and all equipment ("Equipment") provided by ASPIRA to School or placed by ASPIRA in School's facilities for ASPIRA or School's use in connection with the Services shall remain the exclusive property of ASPIRA." (Attachment 11, Charter Management Organization Agreement, Section 13.1, p. 18)(BBFT008537).

56. ASPIRA requires ASPIRA Tech to insure the Equipment, once again shifting risk away from ASPIRA and onto ASPIRA Tech.

57. The rent listed in the budget conflicts with the rent proposed in the Letter of Intent in both the amount of rent paid per square foot in Years 2-5, as well as the square footage rented each year. (CSO Report, p. 42) (BBFT012870).

Existing Operator

58. ASPIRA and the charter schools managed by ASPIRA do not have a track record of success in academics, organizational compliance, or financial management that lend themselves to further growth.

    a. In October 2019, the Board of Education nonrenewed the charters of Olney and Stetson after public hearings and receipt of public comment. The grounds for non-renewal for Olney and Stetson were rooted in failures related to Academic Success, Organizational Compliance and Viability, and Financial Health and Sustainability. (CSO Report at pp. 42-43, 241-43, 254-344, and 605-06) (BBFT012870-71, BBFT013069-70, BBFT013082-BBFT013172, and BBFT013433-34).

    b. On February 15, 2022, CAB affirmed the nonrenewal of Olney and Stetson.

59. In voting to not renew Olney's charter, the Board relied on the September 2019 Hearing Officer Report and Supplemental Report, which made the following conclusions about Olney, as managed by ASPIRA:

    a. Olney failed to comply with material provisions of its charter; (CSO Report at p. 344) (BBFT013172).

    b. Olney "failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted." (internal citations omitted). (CSO Report at pp. 3, 241, 242) (BBFT012831, BBFT013069-70)

    c. The established violations were significant, material and fundamental and thereby warranted nonrenewal of the charter. (CSO Report at p. 344) (BBFT013172).

    d. Olney's students would "probably receive a better education elsewhere or at the same school under different management." (CSO Report at p. 344) (BBFT013173).

60. Similarly, in voting to not renew Stetson's charter, the Board relied on the September 2019 Hearing Officer Report and Supplemental Report, which made the following conclusions about Stetson, as managed by ASPIRA. (CSO Report at pp. 42-43 and 605-606) (BBFT012870-71 and BBFT013433-34).

    a. Stetson failed to comply with material provisions of its charter; (CSO Report, p. 701) (BBFT013529).

b. Stetson "failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted. (CSO Report, p. 701) (BBFT013529).

c. The established violations were significant, material and fundamental and thereby warranted nonrenewal of the charter. (CSO Report, p. 701) (BBFT013529).

d. Stetson's students would "probably receive a better education elsewhere or at the same school under different management." (CSO Report, p. 701) (BBFT013529).

61. ASPIRA's goals for ASPIRA Tech related to suspensions are not consistently being met at the existing high school managed by the ASPIRA at Olney. (CSO Report, p.9) (BBFT012837).

62. ASPIRA's goals for ASPIRA Tech related to attendance is unrealistic given trends at the existing charter schools managed by ASPIRA and in School District schools. (CSO Report, p.9) (BBFT012837)

II. Applicable Law / Discussion

The Charter School Law, Act of June 19, 1997, P.L. 225, as amended, 24 P.S. §17-1701-A *et seq.*, ("CSL") 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 Board's review.

Against this backdrop, the Board examines the Application.

III. Analysis Under the CSL

A. The Applicant Has Failed to Demonstrate Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

The CSL requires a charter school to demonstrate "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). CAB has defined sustainable support as 'support sufficient to sustain and maintain the proposed charter school as an on-going entity.' Catalyst Academy Charter School v. School District of Pittsburgh, CAB Docket No. 2018-03, at 15. (internal citations omitted). This requirement is an 'inherent variable' depending on the size of proposed school, community, and other factors. Id. A charter school is not required to demonstrate a certain percentage of support in each individual category (teachers, parents, community members, and students). Id. at 16. See also Carbondale Area Sch. Dist. v. Fell Charter Sch., 829 A.2d 400, 405 (Pa. Commw. Ct. 2003). Rather, an applicant must demonstrate "a reasonable amount of support in the aggregate." In Re: Appeal of Appeal of Phoenix Academy Charter School, Docket No. CAB 1999-10, at 24. The appropriate measurement for sustainable support is against the initial opening and operation plan of the charter school. In Re Bear Creek Community Charter School, CAB Docket No. 2004-2, at 6-7.

"…The proper community for determining sustainable support is the school district in which the charter school is to be located." In re: Appeal of Legacy Charter School, CAB Docket No. 2000-14, at 11 (internal citations omitted). The support documents, including petitions, should 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, at 12-13. "Form letters and pre-enrollment forms" may also be sufficient evidence of support. Catalyst Academy Charter School v. School District of Pittsburgh, CAB Docket No. 2018-03, at 16.

Here, ASPIRA failed to demonstrate a reasonable amount of support to sustain ongoing operations. Of the submitted Letters of Intent, only 138 students would be eligible for grades 9-10 served in Year 1, equating to 21 percent of the proposed Year 1 enrollment. Further, ASPIRA improperly claims that demand for ASPIRA Tech can be inferred through increases in enrollment at Olney. That is not adequate evidence of sustainable support for ASPIRA Tech.

B. The Applicant Failed to Establish That It Has Properly Planned To Provide Comprehensive Learning Experiences To Students.

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

i. Governance Structure

Under the CSL, a charter school is an "independent school" and "must be organized as a public, nonprofit corporation." 24 P.S. § 17-1703-A; *see also* 24 P.S. § 17-1720-A. Various entities, including *inter alia*: teachers, parents or guardians of students who will attend the school, non-profit corporations, for-profit corporations, associations, or partnerships may establish a charter school. 24 P.S. § 17-1717-A(a). However, even though for-profit corporations and non-profit corporations can establish a charter school, "the legislature did not want to entrust the management and operation of the charter school itself to entities seeking to make money from the school's management and operation; rather, that power is granted to the charter school's board of trustees who, as public officials have a single purpose to promote the interests of pupils." *W. Chester Area Sch. Dist. v. Collegium Charter Sch*., 760 A.2d 452, 468 (Pa. Commw.

Ct. 2000), aff'd, 571 Pa. 503, 812 A.2d 1172 (2002) ("*Collegium"*). This is evidenced within the CSL, as a charter school's board of trustees must, *inter alia*, have the "authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures.." and to "employ, discharge and contract with necessary professional and nonprofessional employes…" *Collegium*, 760 A.2d at 468 (citing and interpreting 24 P.S. § 17-1716-A(a). The board of trustees must also "determine the level of compensation and all terms and conditions of employment of the staff." *Id.* (citing and interpreting 24 P.S. § 17–1724–A(a)).

Charter schools may contract out "certain management and administrative responsibilities" to management companies, including to for-profit corporations. *Id.* However, a charter school may only do so as long as: (1) the charter school itself is a non-profit, (2) "the charter school's board of trustees have real and substantial authority and responsibility for the educational decisions" and (3) the teachers are employees of the charter school itself. *Id. See also Insight PA Cyber Charter Sch. v. Dep't of Educ*., 162 A.3d 591, 595 (Pa. Commw. Ct. 2017). The Commonwealth Court has routinely applied what is now known as the *Collegium* test to determine whether charter schools properly entered into management agreements with for-profit management companies. *See e.g. Insight PA Cyber Charter Sch. v. Dep't of Educ*., 162 A.3d 591, *Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400, 406 (Pa. Commw. Ct. 2003) *Collegium*, 760 A.2d 452.[3]

In applying the *Collegium* test, appellate courts require a review of the corporate documents for the charter school (i.e. the articles of incorporation; the proposed bylaws of the

[3] It does not appear that courts or CAB have applied the *Collegium* test to management agreements between non-profit management companies and charter schools. However, the logic of *Collegium* and *Insight* is applicable to management agreements with non-profit management companies and thus will be applied here in analyzing ASPIRA's Management Agreement with the proposed Charter School.

charter school) and the proposed management agreement, if any. *Insight*, 162 A.3d at 598. *See also Carbondale*, 829 A.2d at 407-08). In reviewing corporate documents and determining whether a charter school's board of trustees maintains real and substantial authority in light of a management agreement or relationship, the Commonwealth Court has considered the following factors: whether a charter school is a division or part of a management company; whether the management company has the power to legally bind or operate the charter school, or vice versa; whether the management agreement was a "products of arms-length negotiations between separate and independent entities" (as is required by the CSL); whether the parties developed and entered into their relationship through "arms-length negotiations"; whether the charter school's board of trustees is independent from the management company; whether the board of trustees have financial interest in or receive compensation from the management company; whether the board of trustees retained power to negotiate the terms of the management contract; and whether the board could terminate the agreement. *Insight*, 162 A.3d at 596; 598, 601 n.9; *Collegium*, 760 A.2d at 469-70. These enumerated factors are not an exhaustive list of factors that must be considered; rather, they are factors examined by the Commonwealth Courts in *Collegium* and *Insight* given the specific facts of the case.

Here, ASPIRA dominates and controls ASPIRA Tech in all meaningful respects. ASPIRA Tech retains no real independence from ASPIRA. It is clear that the board of trustees lacks real and substantial authority over the Proposed Charter School. First, the relationship between ASPIRA and ASPIRA Tech and the agreements documenting that relationship, including the Management Agreement, Staffing Agreement, and Lease Agreement, are not the products of an arm's length relationship or negotiations. In fact, all ASPIRA-managed schools employ the same independent counsel to help negotiate the terms of the Management, Staffing

and Lease agreements. (N.T. 142:20-143:4, 141). Each ASPIRA-managed school uses the same firm to conduct their audits. Regarding the relationship, the founding Incorporator of ASPIRA Tech is Alfredo Calderon, the CEO of ASPIRA. Mr. Calderon even listed ASPIRA's headquarters at 4322 N. 5th Street. Philadelphia, PA 19140 as his address on ASPIRA Tech's Articles of Incorporation. ASPIRA Tech is proposed to be located at another ASPIRA building used by other ASPIRA-managed charter schools — 6301 N. 2nd Street Philadelphia, PA 19120. Additionally, the school has no alternatives to paying for its startup costs, but the grant that ASPIRA will provide to the school.

Regarding the makeup of the proposed Board of Trustees for ASPIRA Tech, ASPIRA not only handpicked the proposed members, but the proposed members all have ties to ASPIRA. Two proposed members, Daisy Rosa and Walter Yakobosky, are members of ASPIRA Tech's founding board. Additionally, none of the proposed Trustees live or work in the catchment area or have experience in public education or with respect to founding a charter school. Sean Harrigan neither lives nor works in Pennsylvania. The proposed school leader is James Thompson, current Principal of Olney, a charter school under a management agreement with ASPIRA. Against this backdrop, the trustees are undoubtedly controlled by ASPIRA given their connections with the organization. Under this control, these trustees will be forced to make initial key decisions as to the terms and conditions of the Management Agreement with ASPIRA, the Staffing Agreement with ASPIRA, and the Lease Agreement with ASPIRA. Such trustees will likely make decisions by putting the interests of ASPIRA before the interests of ASPIRA Tech. In light of these circumstances, it would be difficult to argue that the negotiations over the terms in the agreements were truly "products of arms-length negotiations between separate and independent entities" and that the Board of Trustees is truly independent from ASPIRA.

ASPIRA's counsel drafted the proposed Management Agreement, the proposed Staffing Agreement, and the proposed Lease Agreement for use of the facility, which is owned by an ASPIRA affiliate. Further, the agreements are essentially form agreements that ASPIRA executed with other ASPIRA-managed charter schools. The only identified funds available to ASPIRA Tech to pay for its own independent review by its own counsel is a donation from ASPIRA. The level of service provided under the Management Agreement can be unilaterally decreased by ASPIRA based on outside factors beyond ASPIRA Tech's control, putting the risk of such factors completely on ASPIRA Tech. Finally, the ASPIRA Tech Board has no real ability to terminate or not renew any of the agreements. In fact, ASPIRA's own CFO conceded that none of the many charter schools managed by ASPIRA have ever terminated or failed to renew a management agreement with ASPIRA. Further, as explained below, these documents were even drafted to put all the risk of market conditions and other outside factors on ASPIRA Tech and to put virtually none of the risk on ASPIRA.

ii. Financial Operations & Budget

Under the CSL, a charter school's board of trustees must have the authority to decide matters related to the school's budget. 24 P.S. § 17-1716-A. Additionally, an applicant must "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." *In Re: Thomas Paine Charter School*, CAB No. 2009-04, at 12 (*citing Voyager Charter School*, CAB No. 2005-09). In other words, under Section 1717-A(e)(ii), a charter school must "provide a sound financial plan that will enable [the charter school] to operate." *In Re: Bear Creek Community Charter School*, CAB No. 2003-3 at 18-19.

Here, ASPIRA Tech failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including: 1) assuming that the percentage of special education students to total students enrolled in the proposed Charter School would range between 20 percent and 25 percent, 2) stating that the 3rd floor is approximately 45,000 square feet, but in the budget it states 60,000 square feet for Year 1, and 3) the rent for the proposed lease will be equal to $12.00/square foot which would equal $540,000 but the rent for year 1 in the budget is $720,000. These inconsistencies do not allow for a confirmation of the budget's viability,

The application anticipates the school initially having to pay about $500,000 to ASPIRA, in order for ASPIRA to begin providing services to the School. Although the application states that ASPIRA will grant the School money for startup costs, the application doesn't specify what is considered startup costs under the terms of the grant. Therefore, it is unclear whether the School can use this grant to pay the initial fees being charged by ASPIRA, with such grant.

Additionally, the Board of Trustees lacks meaningful authority to decide matters related to the school's budget, as is required by 24 P.S. § 17-1716-A. The proposed Management Agreement provides ASPIRA with responsibility to oversee all aspects of the Charter School's non-instructional operations, with a lack of detail on the actual fees. The fees under the Management Agreement pays only for C-level staff and intellectual property. The Management Agreement requires a $53,000 deposit (presumably funded by the ASPIRA donation) before any service is rendered, and such deposit would be held by ASPIRA until the termination of the Management Agreement. Similarly, the ASPIRA Staffing Agreement requires a $433,656 deposit (which has no apparent source of funding) before any service is rendered, and such deposit would be held by ASPIRA until the end of the Staffing Agreement. The rates set forth in

the Staffing Agreement are subject to increase or decrease upon notice by ASPIRA to ASPIRA Tech based on market conditions beyond the control of ASPIRA Tech, putting the market risk all on ASPIRA Tech. Finally, under the Bylaws, two Board members may approve expenditures up to $5,000 without full Board approval.

iii. Staffing

A charter school's board of trustees must have "the authority to employ, discharge, and contract with necessary professional and nonprofessional employees subject to the school's charter" and the CSL. 24 P.S. §§ 17-1716-A(a). Further, the board of trustees must "determine the level of compensation and all terms and conditions of employment of the staff" 24 P.S. § 17-1724-A(a).

Here, according to the ASPIRA Schools and ASPIRA Organization Chart (which appears to be a one-size-fits-all for all ASPIRA-managed charter schools), the direct employees of ASPIRA Tech are limited to six positions: (1) Principal, (2) Assistant Principal(s), (3) Lead Administrative Assistant, (4) Classroom Teachers, (5) Counselors, and (6) Teacher Aides. The remaining roles, including all school climate and culture staff, would be employees of ASPIRA. Many of the personnel relied upon by Mr. Thompson to establish and maintain school culture also work for, and report to, ASPIRA, including the following: Special Programs Coordinator, Director of Specialized Services, Crisis Counselor, Intervention Coordinator, and. Compliance Coordinator. According to the terms of the Management Agreement, the Principal would have no supervisory relationship over school climate and culture staff, exposing a challenge in developing a cohesive school culture. Rather, according to both the proposed Management Agreement and Staffing Agreement, ASPIRA "shall be solely responsible for the recruitment, qualification and training of all such staff." Thus, ASPIRA Tech's Board of Trustees lacks the

ability to recruit, hire, supervise, manage (other than be able to provide "reasonable direction") and fire the majority of the school's staff, with that responsibility falling to ASPIRA. Additionally, ASPIRA may reduce the type and/or level of services it provides to ASPIRA Tech with just 30-day notice, with no specific requirement to relay when the originally contracted service(s) will resume. Finally, a number of critical climate and culture roles are missing from the staffing table and budget: Special Programs Coordinator, Director of Specialized Services, Crisis Counselor, Intervention Coordinator, and Compliance Coordinators. It is unclear how school culture and climate would be impacted by the absence of these roles. ASPIRA Tech can only request that certain staff not be assigned to the proposed Charter School if ASPIRA Tech can provide good cause to ASPIRA.

Additionally, a review of fees demonstrates inconsistency across existing ASPIRA-managed charter schools and with the proposed Charter School's budget for the same positions. The unjustified variation in fees across existing ASPIRA-managed charter schools and inconsistency with the salaries in the Application raise significant questions regarding the extent to which the proposed Charter School is being charged a fair staffing rate for personnel in comparison to the other ASPIRA-managed charter schools.

Finally, the Confidentiality section of the Management Agreement requires employees of ASPIRA Tech to sign confidentiality agreements and does not acknowledge that certain information and records of ASPIRA Tech may be subject to requirements under the Federal Education Rights and Privacy Act ("FERPA") and the Pennsylvania Right to Know Law.

iv. Curriculum

Under the CSL, a charter school's application, "must contain 'the curriculum to be offered'" *In Re: Appeal of Environmental Charter School at Frick Park* (CAB No. 2007-0) at 6

(interpreting 24 P.S. § 17-1719-A(5)). "The curriculum of a school, any school, is one of the most significant building blocks of the educational program at that institution." *In Re: Thomas Paine Charter School* (CAB No. 2009-04) at 9. "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 school." *In Re: Appeal of Environmental Charter School at Frick Park* (CAB No. 2007-0) at 6.

A curriculum is defined as "a series of planned instruction aligned with the academic standards in each subject 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. [4] 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.* In turn, a charter school must adhere to Pennsylvania Core and Academic Standards. CAB routinely upholds the denial of charter applications when a school's curriculum does not align with Pennsylvania Standards. *See e.g. In re: Bear Creek Community Charter School Appeal* (CAB No. 2003-3) at 12. ("[t]he Application fails to explain how planned instruction fulfills Chapter 4 requirements." (*citing*) 22 Pa. Code s 4.11(h)); S*partansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 35 ("Furthermore, the curriculum maps set forth the PA Core Standards to which they are aligned, but there are standards missing, or standards listed that do not exist, with the result being that the curriculum maps describe a program that is not fully aligned with PA standards."); A*llentown Engineering Academy Charter School v. Allentown School District* (CAB No. 2014-01) at 20 ("At its most fundamental level,

[4] Under 24 P.S. § 17-1732-A, n.8, 22 Pa. Code § 4.4(a), applies to charter schools, which includes regulations from the State Board of Education.

the [] proposed curriculum fails to satisfy the curriculum requirement of the CSL by lacking the planned instruction required by the Department of Education regulations for Grades 6 through 8.").

Additionally, "CAB has found that the failure to describe how the nontraditional elements of the Charter School will be integrated into the curriculum renders the curriculum insufficient." *In re Appeal of Community Service Leadership Development Charter School,* Docket No. 2010-02) at 11 (*citing In re David P. Richard Academy Charter School*, Docket No. 2001-8). For example, in *Community Service Leadership Development*, CAB, in upholding the denial of an application, emphasized that although the school indicated that it would provide educational opportunities on the basis of gender, the curriculum did not "clearly articulate how gender-based instruction [would] be applied." *Id.* Similarly, in *Spartansburg Community Charter School*, CAB, in upholding a denial of an application, emphasized that the school's curriculum did not indicate where and how its agriculture and agribusiness themes and hand-on learning elements would be integrated into the school's programming. S*partansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 39.

Here, ASPIRA Tech's curriculum fails to demonstrate that ASPIRA Tech would teach all required Pennsylvania Core and Academic Standards and meet grade level requirements as required by Chapter 4, Title 22 of the Pennsylvania Code, as enumerated in the Findings of Fact. *See* Findings of Fact Nos. 45-49. Despite the ASPIRA Tech's bilingual focus, the Application does not differentiate the Proposed Charter School from School District schools in this regard. Specifically, no required credentials for Principal Asst and Principal ELL to be bilingual; and there is a notable absence of goals related to the bilingual programs. Moreover, despite ASPIRA

Tech's CTE focus, the Application demonstrates a very superficial commitment to a CTE program, as is enumerated in the Findings of Facts. *See* Findings of Fact Nos. 45-49.

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. *See* 24 P.S. § 17-1719-A. The Board believes that the Applicant has failed to include or properly address several items of information as required in this section of the CSL.

i. 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.

As explained in more detail above, ASPIRA utterly controls and dominates ASPIRA Tech, and ASPIRA Tech retains no real independence. Further, the Board of Trustees does not have real or substantial authority for the educational decisions of the Proposed Charter School, as required by the CSL.

ii. Section 1719-A(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.

As explained in more detail above, the proposed curriculum fails to adhere to Pennsylvania regulations and academic standards.

iii. Section 1719-A(6)— The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.

Charter schools must abide by several requirements regarding enrollment, including *inter alia*, giving preference to students who reside in the district. 24 P.S. § 17-1723-A. The Applicant fails to describe a rationale for why it would contemplate an enrollment preference that draws students from an existing ASPIRA-managed school, Olney. Given that Olney leadership is proposed to migrate to ASPIRA Tech, there is an inference that there may be efforts to redirect

the applicant pool from Olney to ASPIRA Tech and leave the applicant pool of Olney to consist primarily of those applicants who were not admitted to or did not enroll in ASPIRA Tech.

iv. Section 1719-A (9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.

As explained above, the Applicant failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including: 1) assuming that the percentage of special education students to total students enrolled in ASPIRA Tech range between 20 percent and 25 percent, 2) stating that the 3rd floor is approximately 45,000 square feet, but in the budget it states 60,000 square feet for Year 1, and 3) the rent for the proposed lease will be equal to $12.00/square foot which would equal $540,000 but the rent for year 1 in the budget is $720,000.

v. Section 1719-A (11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.

In evaluating denials and nonrenewal of charters, CAB has considered whether a charter school is "independent" of a service provider, including management companies, especially regarding lease agreements. In evaluating leases and similar agreements between a charter school and service provider, CAB has considered the following factors: whether the parties have common board members or administrators; whether a written contract "delineates each entity's responsibilities to the other or payment terms"; whether one party is "enriched" by a "comingling of relationships" between the parties; whether the service provider has done business with other charter schools in Pennsylvania (doing additional business shows a lack of charter school independence); whether the agreement benefitted the service provider; and whether the agreement benefitted the charter school. *Pocono Mountain Charter School v. Pocono Mountain School District*, CAB Docket No. 2010-06 at 25-29*; I-Lead Charter School v. Reading School*

District, CAB Docket No. 2016-05 at 30-35. Further, a charter school may only disburse funds for "charter school purposes only." *Pocono* at 25 (*interpreting* 24 P.S. § 17-1714-A(4)). As a result, a charter school cannot conduct its business to financially benefit a service provider.

Here, in addition to the fact that ASPIRA exhibits control over ASPIRA Tech in all meaningful respects as explained above, the Lease Agreement financially benefits ASPIRA. Specifically, ASPIRA shifts the risk to ASPIRA Tech regarding the maintenance of the facility. ASPIRA states that the maintenance of the facility is provided by ASPIRA via the Management Agreement; however, the Management Agreement states that the costs associated with said repairs are the responsibility of ASPIRA Tech. The Lease Agreement states that the Tenant (who will be ASPIRA Tech) shall be responsible for the maintenance and repair of the facility, "whether such repairs be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen." This means that the risk of expensive long-term structural damage has been shifted from ASPIRA to ASPIRA Tech. Pursuant to the Management Agreement, "Title to any and all equipment ("Equipment") provided by ASPIRA to School or placed by ASPIRA in School's facilities for ASPIRA or School's use in connection with the Services shall remain the exclusive property of ASPIRA." Finally, the rent listed in the budget conflicts with the rent proposed in the Letter of Intent in both the amount of rent paid per square foot in Years 2-5, as well as the square footage rented each year.

Finally, while the proposed facility identified for ASPIRA Tech is suitable for school use, the space proposed is inadequate to meet the needs of the Proposed Charter School after Year 1. Further, the Applicant inconsistently states the size of the space being leased as well as the rent that would be paid for the facility.

vi. <u>Section 1719-A(15) - A report of criminal history record for all individuals who shall have direct contact with students.</u>

Charter schools must include information on the criminal backgrounds of individuals who will have direct contact with students. Here, the Applicant fails to provide any information on the criminal background history of its identified personnel.

D. The Extent to Which the Charter School May Serve as a Model for Other Public Schools

The Board 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). As explained above, ASPIRA Tech has already failed to show that it is a model for other public schools, as its curriculum does not adhere to Pennsylvania regulations. See *Spartansburg Community Charter* at 32 ("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…" (internal citations omitted). Upon examination and evaluation of the deficiencies in the Application identified above, the Board concludes that the Charter School does not have the capacity to serve as a model for other public schools in Pennsylvania.

The Board further concludes that the facts articulated in the Existing Operator section above about the operation and performance of Olney and Stetson do not support approving another charter school to be managed by ASPIRA, at this time. Academic and operational results of charter schools managed by an existing charter management company are important and relevant to the Board's review to determine whether another charter should be granted which would be managed by the same charter management company. Adding another charter school would divert the resources and attention of ASPIRA from the existing charter schools it manages to the start-up operations of the new charter school.

The Board nonrenewed the charters of two charter schools managed by ASPIRA — Stetson and Olney. Those nonrenewals were affirmed by the CAB. ASPIRA and the charter schools it manages do not have a track record of success in academics, organizational compliance, or financial management that lend themselves to further growth. Further, goals related to suspensions are not consistently being met at the existing high school managed by the Applicant, Olney Charter High School. The goal related to attendance is unrealistic given trends at the existing charter schools managed by the Applicant and in School District schools. ASPIRA should focus its attention on improving the schools it currently manages, as opposed to opening another.

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ORDER

For the reasons set forth above, the Application to create the ASPIRA Bilingual Business, Finance, and Technology Charter High 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
President

Action Item - 2.

Title: Application for New Charter School: ASPIRA Eugenio Maria de Hostos Preparatory Charter School (Updated 3.4.2022))

Board of Education Meeting Date: 3/3/2022

WHEREAS, on or before November 15, 2021, the applicant for ASPIRA 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 21, 2021 and January 25, 2022; and

WHEREAS, Applicant is seeking a charter from the Board of Education ("Board") to operate as a school starting in the 2022-2023 school year and serving at scale by the 2025-2026 school year K-Grade 8 with a maximum enrollment of 1,035 students; so be it

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 Board 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).

Office Originating Request: Board of Education

ATTACHMENTS:

Description	Type
Final Adjudication	Supporting Document

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION

IN RE: ASPIRA EUGENIO MARIA DE HOSTOS PREPARATORY CHARTER SCHOOL

2021 CHARTER SCHOOL APPLICATION

ADJUDICATION

The Board of Education ("Board") adopts this Adjudication regarding the 2021 Charter School Application ("Application") filed with The School District of Philadelphia ("School District") by the Applicant for the ASPIRA Eugenio Maria De Hostos Preparatory Charter School ("Proposed Charter School" or "Hostos Prep"). 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 Board currently authorizes 85 operating charter schools serving more than 67,000 students.
3. The Charter Schools Office ("CSO") assists the Board and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting 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 Philadelphia.

4. On or around November 15, 2021, the School District received the Application filed by the Applicant (EMDHP000001-EMDHP007794).[1]

5. The Board appointed a Hearing Officer to preside at the hearings to be held on all of the new charter 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 Board 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 Officer consistent with law."

6. Two public hearings were held on the Application, the first occurring on December 21, 2021 and the second occurring on January 25, 2022. The public hearings were each stenographically recorded. All references to the Notes of Transcript are to the January 25, 2022 hearing unless specifically noted otherwise.

7. Supplemental materials were not accepted by the School District. Potential applicants were informed in the "Application Components and Guidelines For Submitting A New Charter School Application For Charter Schools Seeking To Open In The 2022-2023 School Year" form ("Application Form") published by the School District at https://drive.google.com/file/d/1rPbZ6ZXhRyBvq_kY4uW-48RMhdz_Fbow/view, as follows:

[1] The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "HP".

> Applications must be complete upon initial submission. No supplementary materials will be accepted or considered after submission of the application. All documents, policies, and procedures submitted should be specific to the proposed charter school . . ."

8. Applicants were also reminded at the December 21sr hearing that the School District was not accepting supplemental materials as part of the hearing process and that each application should have been complete at the time of its submission. (12/21/21 N.T. 9).

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

   a. The Application including all submitted attachments, marked as Exhibit 1 (EMDHP000001-EMDHP007794);

   A PowerPoint submitted by the Applicant at the first hearing, marked as Exhibit 2 (EMDHP007795-EMDHP007813);

   b. Written public comments received by the January 28, 2022 public comment deadline established by the School District, marked as Exhibit 3 (EMDHP007814-EMDHP007822);

   c. The CSO's written Evaluation Report, marked as Exhibit 4 (EMDHP007823-EMDHP008795);

   d. Transcripts from the hearings held on December 21, 2021 and January 25, 2022. (EMDHP008796-EMDHP009034); and

   e. The School District's Application Form found at https://drive.google.com/file/d/1rPbZ6ZXhRyBvq_kY4uW-48RMhdz_Fbow/view

General Information

10. The Application was filed by ASPIRA Inc. of Pennsylvania ("ASPIRA" or "Applicant") for a charter to be granted to Hostos Prep to provide to provide a bilingual, bicultural, academically rigorous program in English and Spanish for students to achieve maximum potential.

11. ASPIRA is a Philadelphia based community non-profit that currently provides educational management services to four brick and mortar charter schools authorized by the Board: Antonia Pantoja Charter School ("Pantoja"); Eugenio Maria De Hostos Charter School ("Hostos"); Olney Charter High School ("Olney"); John B. Stetson Charter School ("Stetson"). ASPIRA also is the management company for one cyber charter school authorized by the Pennsylvania Department of Education ("PDE"): ASPIRA Bilingual Cyber Charter School. In October 2019, after public hearings and receipt of public comment, the Board nonrenewed the charters of two charter schools of Olney and Stetson and adopted the Hearing Officer's Reports and Supplemental Reports as the reasons for the decisions. See Board of Education Action Item #35, Re: John B. Stetson Charter School; an ASPIRA, Inc. of Pennsylvania School – Nonrenewal of Charter (October 17, 2019); Board of Education Action Item #34, Re: Olney Charter High School – Nonrenewal of Charter (October 17, 2019). (Charter School Office New Charter Application Evaluation Report 2020-21 Eugenio Mario de Hostos Preparatory Charter School ("CSO Report") at pp. 44, 242, 243, 606 and 607 (EMDHP007866, EMDHP008064-65, EMDH008428-29). The grounds for non-renewal for Olney and Stetson were rooted in failures related to academic success, organizational compliance and viability, and financial health and sustainability. *Id.* Olney and Stetson have each appealed the nonrenewal decisions to the State

Charter School Appeal Board ("CAB"). On February 15, 2022, CAB affirmed the nonrenewal of the Olney and Stetson Charters.

12. Hostos Prep plans to open in the 2022-2023 school year (Year 1) and aims to serve 690 students in K-Grade 5 in Year 1, scaling to 1,035 students in K-Grade 8 in the 2025-2026 school year (Year 4). (Fact Sheet, p.1) (EMDHP000001).

13. Hostos Prep would be located at ASPIRA's headquarters — 4322 N. 5th Street. Philadelphia, PA 19140 — and would admit students citywide with an admission preference for students residing in the Kensington and Olney catchments. (Fact Sheet, p.1) (EMDHP000001).

14. The lease for the proposed location is with ACE/Dougherty LLC, a Pennsylvania limited liability company which is owned and controlled by ASPIRA. (Attachment 41, Intent to Lease or Purchase, p.1) (EMDHP007273).

15. As explained below, Hostos Prep will outgrow its space by the beginning of the 2023-2024 school year (Year 2) and plans to provide portable classrooms to accommodate its students. (N.T. 59:2-59:24). Hostos Prep has not identified a new location for the 2023-2024 school year (Year 3) and subsequent school years. (N.T. 41:11-15, 58:23-59:24).

Sustainable Support

16. ASPIRA provided Intent to Enroll forms for approximately 73% of the proposed enrollment in Year 1. (Attachment 32, Intent to Enroll Forms) (EMDHP004824-EMDHP005688).

17. ASPIRA solicited the Intent to Enroll forms from families currently on waitlists for other ASPIRA-managed charter schools. (N.T. 38:13-39:2).

18. Of the submitted Letters of Intent, 107 of the 504 grade-eligible students already attend ASPIRA-managed charter schools. (CSO Report, p. 36-37) (EMDHP007858-59).

19. Those solicited were not informed that Hostos Prep would be relocating. (N.T. 40:9-41:10).

20. The Board received five written comments in opposition to the Application. (EMDHP007814-EMDHP007822).

Governance Structure

21. The Founding Incorporator of Hostos Prep is Alfredo Calderon, Chief Executive Officer of ASPIRA. (Attachment 6, Articles of Incorporation, p. 2) (EMDHP004194).

22. On Hostos Prep's Articles of Incorporation, Mr. Calderon listed ASPIRA's headquarters as his address. (Attachment 6, Articles of Incorporation, p. 2) (EMDHP004194).

23. ASPIRA submitted a proposed Master Service Level Agreement ("Management Agreement") it intends to enter into with Hostos Prep. (Attachment 11, Charter Management Organization Agreements) (EMDHP004223-EMDHP004257).

24. ASPIRA is positioned as both the incorporator and "ongoing manager" of Hostos Prep. (Narrative, p. 48) (EMDHP000050).

25. The proposed Management Agreement provides ASPIRA with responsibility to oversee all aspects of the Charter School's non-instructional operations. (Attachment 11, Charter Management Organization Agreements, pp. 2-3, 24-34) (EMDHP004224-EMDHP004225, EMDHP004246-EMDHP004257).

26. The level of service provided under the Management Agreement can be unilaterally decreased by ASPIRA based on outside factors beyond Hostos Prep's control, which thereby places the risk of such factors completely on Hostos Prep. (Attachment 11, Charter Management Organization Agreements, p. 6) (EMDHP004228).

27. The Board of Trustees of Hostos Prep has no real ability to terminate the Management Agreement. Thomas Darden, Chief Operating Officer of ASPIRA, testified in a companion hearing held on January 27, 2021 regarding an application for another charter school submitted by ASPIRA that no charter schools managed by ASPIRA have ever terminated or failed to renew a management agreement with ASPIRA. Additionally, in the closing document APSIRA's counsel stated any termination of the MSLA would potentially impact other schools. (p.47)

28. In addition to the Management Agreement, ASPIRA also submitted a Staffing Agreement ("Staffing Agreement") (Attachment 12, CMO Network Staffing) and a Lease Agreement for the use of the facility. (EMDHP004258- EMDHP004283)

    a. Counsel for ASPIRA drafted the Staffing Agreement and the Lease Agreement.

    b. The Staffing Agreement and the Lease Agreement are essentially form agreements that ASPIRA executed with other ASPIRA-managed charter schools. (Notes of Transcript for hearing for ASPIRA Bilingual Business, Finance, and Technology Charter High School ("ASPIRA Tech N.T.") at Aspira Tech. (N.T.56:2-57:24).

    c. The only identified funds available to Hostos Prep to pay for its own independent review of the Staffing Agreement and the Lease Agreement by its own counsel is a donation from ASPIRA. (N.T. 105:11-107:2).

29. Glenda Marrero, who is currently Assistant Principal of Stetson, an ASPIRA-managed charter school under a management agreement with ASPIRA, is designated to become principal of Hostos Prep. (N.T. 50:23-51:2).

30. Regarding the proposed Board of Trustees of Hostos Prep, only five of nine possible members have been identified. (N.T. p. 27).

    a. One member of the proposed Board of Trustees (the PTO parent member) cannot be identified until several months after a charter is obtained. (N.T. 30:4-22).

31. ASPIRA handpicked the identified members of the proposed Board of Trustees all of whom were identified by an ASPIRA employee.

    a. One proposed member, Kevin Glover, recently worked for ASPIRA as a Personal Finance Teacher and is also proposed to be a board member for another ASPIRA managed school. (N.T. 27:10-20, 28:21-29:6,) (ASPIRA Tech N.T. 37:9-15).

    b. None of the proposed Board members currently live in the proposed catchment area. (N.T.29:13-30:3) (Attachment 7, Board Resumes) (EMDHP004196-EMDHP004206)

32. None of the proposed members, other than Mr. Glover, have experience in public education or with starting a charter school. (Attachment 7, Board Member Resumes) (EMDHP004196-EMDHP004206).

33. The proposed five Board members will presumably make the initial key decisions as to the terms and conditions of the following:

    i. The Management Agreement with ASPIRA,

    ii. The Staffing Agreement with ASPIRA, and

    iii. The Lease Agreement for the facility owned by an ASPIRA affiliate (ASPIRA Community Enterprise, Inc. ("ACE")).

(N.T. 30:23-31:3, 106:9-20) (ASIPRA Tech, N.T. 55:11-56:11).

Financial Operations and Budget

34. The Management Agreement provides ASPIRA with responsibility to oversee all aspects of the Proposed Charter School's non-instructional operations; however, the agreement does not detail the costs associated with this relationship.

    a. The Management Agreement only accounts for costs associated with C-level staff and intellectual property. As a result, Hostos Prep must pay ASPIRA for costs associated with all personnel hired by ASPIRA. (N.T. 18:23-19:8) (CSO Report, p. 2) (EMDHP007824) (Attachment 11, Charter Management Organization Agreements) (EMDHP004223-EMDHP004257).

35. Under the Management Agreement, Hostos Prep must pay ASPIRA a $53,000 deposit before ASPIRA will render any services, and ASPIRA will hold this deposit through the end of the Management Agreement. This deposit will be presumably funded by an ASPIRA donation. (Attachment 11, Charter Management Organization Agreements, p. 6) (EMDHP004228) (N.T. 105:11-107:2).

36. In addition to the Management Agreement deposit, the ASPIRA Staffing Agreement requires a $433,656 deposit (which has no apparent source of funding) before any services are rendered. This deposit would also be held by ASPIRA until the end of the agreement. (Attachment 12, CMO Network Staffing, p. 7) (EMDHP004264).

37. The rates set forth in the Staffing Agreement are subject to increase or decrease upon notice by ASPIRA to Hostos Prep based on market conditions beyond the control of Hostos Prep, which places the market risk entirely on Hostos Prep. (Attachment 12, CMO Network Staffing, p. 8-9) (EMDHP004265-66).

38. For staffing, a review of fees demonstrates inconsistency across existing ASPIRA-managed charter schools with the proposed Hostos Prep's budget for the same positions. (N.T.19:8-20:4).

a. The unjustified variation in fees across existing ASPIRA-managed charter schools and inconsistency with the salaries in the Application raise significant questions regarding the extent to which Hostos Prep is being charged a fair staffing rate for personnel in comparison to the other ASPIRA-managed charter schools.

39. Under the Hostos Prep Bylaws, two trustees may approve expenditures up to $5,000 without full Board approval. (Attachment 9, Board By-laws, Section 3.1, h) (EMDHP004210).

40. The Applicant failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, as follows:

a. The Applicant assumed that the percentage of special education students to total students enrolled in the Proposed Charter School to range between 20% and 25%.

b. The Applicant assumed salary increases that differ between 1.5% annually and 2% every other year.

(N.T. 22:5-22:13).

Staffing

41. Hostos Prep has no real ability to terminate or not renew the Staffing Agreement.

42. According to the Management Agreement and Organization Chart (which appears to be a one-size-fits-all for all ASPIRA-managed charter schools), direct employees of Hostos Prep are limited to the Principal, Assistant Principal(s), Lead Administrative Assistant, Classroom Teachers, Counselors, and Teacher Aides. (CSO Report, p. 2) (EMDHP007824) (Attachment 8, Organizational Chart) (EMDHP004207).

43. The remaining roles, including all school climate and culture staff, would be employees of ASPIRA.

a. Many of the personnel relied upon by Ms. Marrero to establish and maintain school culture also work for, and report to, ASPIRA, including the following: Special Programs Coordinator, Director of Specialized Services, Crisis Counselor, Intervention Coordinator, and Compliance Coordinator. (ASPIRA Tech N.T. 64:17-66:12) (CSO Report, p.7-8) (EMDHP007829-30).

44. According to the terms of the Management Agreement, the Principal would have no supervisory relationship over school climate and culture staff, exposing a challenge in developing a cohesive school culture. (Attachment 11, Charter Management Organization Agreements, Section 2.2, p.2) (EMDHP004224).

45. ASPIRA "shall be solely responsible for the recruitment, qualification and training of all such staff." (Attachment 11, Charter Management Organization Agreements, Section 2.2, p.2) (EMDHP004224) (Attachment 12, CMO Network Staffing, Section 2.3, p.3) (EMDHP004260)

a. In conjunction with this and other terms of the Staffing Agreement, Hostos Prep lacks the ability to recruit, hire, supervise, manage (other than be able to provide "reasonable direction") and fire the majority of Hostos Prep's staff, with that responsibility falling to ASPIRA. HOSTOS Prep can only request that certain staff not be assigned to the Proposed Charter School if Hostos Prep can provide good cause to ASPIRA. (Attachment 12, CMO Network Staffing, Section 2.5, p. 4) (EMDHP004261).

46. Further, a number of critical climate and culture roles are missing or are inconsistently documented in the Narrative, Staffing Table, and Budget, including: Senior Director of

Specialized Services, Psychologists, Intervention Coordinators, and Special Education Coordinators.

47. The Confidentiality section of the Management Agreement requires employees of Hostos Prep to sign confidentiality agreements and does not acknowledge that certain information and records of Hostos Prep may be subject to requirements under the Federal Education Rights and Privacy Act ("FERPA") and the Pennsylvania Right to Know Law. (Attachment 11, Charter Management Organization Agreement, Section 8.1, 10) (EMDHP004232).

Curriculum

48. The Applicant failed to demonstrate that Hostos Prep would teach required PA Core and Academic Standards, according to the proposed curriculum. (CSO Report, pp. 2, 5) (EMDHP007824, EMDHP007827).

49. The Applicant also did not submit a comprehensive set of curricular materials to demonstrate that Hostos Prep would meet grade level requirements as required by Chapter 4, Title 22 of the Pennsylvania Code. (CSO Report, p. 5) (EMDHP007827) (N.T. 17:11-22).

50. The CSO reviewed the curriculum submitted by the Applicant to determine if the materials submitted contained a complete curriculum and evidence of planned instruction, and if the materials establish that the unique elements proposed by the Applicant are reflected in the submission. The CSO's "Curriculum and Educational Plan" findings (CSO report, pp. 4-6) (EMDHP007826-28) have been reviewed by the Board, are found to be credible and supported by the record and are hereby adopted and

incorporated herein in their entirety. Highlights from those findings include the following:

> **English Language Arts:** The Applicant submitted scope and sequences, unit assessments, grammar lessons, and text selections for Kindergarten through Grade 8. The submitted ELA curriculum materials were missing planned instruction materials for all Speaking and Listening (CC.1.5) standards across Kindergarten through Grade 8. Further, the submitted materials failed to address Alternative Eligible Content.
> **Math:** The Applicant submitted content unit guides, instructional guides, exemplars for K-2 math centers, scope and sequences, unit assessments, and supplemental materials for Kindergarten through Grade 8. The submitted Math curriculum materials were missing evidence of planned instruction for the following standards: CC.2.4.3.A.5, CC.2.3.4.A.1, CC.2.3.4.A.2, CC.2.3.4.A.3, CC.2.4.5.A.1, CC.2.4.5.A.2, CC.2.4.5.A.4, and CC.2.4.5.A.5. Further, the submitted curriculum materials for Math fail to address a significant portion of Eligible Content and Alternative Eligible Content.
>
> **Science and Technology:** For Science, The Applicant submitted scope and sequences for Kindergarten through Grade 8 and unit assessments for Grades 4-8. For Kindergarten through Grade 2, the submitted Science curriculum materials were missing evidence of planned instruction for the following standards: 3.2.K.A1, 3.2.K.A3, 3.2.K.A5, 3.2.K.A6, 3.3.K.A7, 3.3.K.B3, 3.1.1.C3, 3.1.1.C4, 3.2.1.A1, 3.2.1.A3, 3.2.1.A4, 3.2.1.B1, 3.2.1.B6, 3.1.2.A3, 3.1.2.B6, 3.3.2.B1, 3.3.2.B3.
>
> For Grade 3, the submitted Science curriculum materials were missing evidence of planned instruction for the following standards: 3.1.3.A1, 3.1.3.A2, 3.1.3.A3, 3.1.3.A5, 3.1.3.A9, 3.2.3.A1, 3.2.3.A2, 3.2.3.A3, 3.2.3.A4, 3.2.3.A5, 3.2.3.A6, 3.2.3.B2, 3.2.3.B3, 3.2.3.B4, 3.2.3.B5, 3.2.3.B6, 3.2.3.B7, 3.3.3.A1, 3.3.3.A2, 3.3.3.B1, 3.3.3.B3, 3.4.3.A1, 3.4.3.A2, 3.4.3.A3, 3.4.3.B1, 3.4.3.B3, 3.4.3.B4, 3.4.3.D2, 3.4.3.D3, 3.4.3.E1, 3.4.3.E2, 3.4.3.E3, 3.4.3.E4, 3.4.3.E5, 3.4.3.E6, 3.4.3.E7.
>
> For Grade 4, the submitted Science curriculum materials were missing evidence of planned instruction for the following standards: 3.1.4.A1, 3.1.4.A2, 3.1.4.A3, 3.1.4.A5, 3.1.4.A8, 3.1.4.A9, 3.1.4.B1, 3.1.4.B2, 3.1.4.C3, 3.2.4.A1, 3.2.4.A2, 3.2.4.A3, 3.2.4.A4, 3.2.4.A5, 3.2.4.A6, 3.2.4.B5, 3.3.4.A2, 3.3.4.A4, 3.3.4.A5, 3.3.4.B1, 3.3.4.B2, 3.3.4.B3, 3.4.4.A1, 3.4.4.A3, 3.4.4.B1, 3.4.4.B2, 3.4.4.B3, 3.4.4.B4, 3.4.4.D2, 3.4.4.D3, 3.4.4.E1, 3.4.4.E2, 3.4.4.E3, 3.4.4.E4, 3.4.4.E5, 3.4.4.E6, 3.4.4.E7.
>
> For Grade 5, the submitted Science curriculum materials were missing evidence of planned instruction for the following standards: 3.1.5.A3, 3.1.5.A5, 3.1.5.A9,

3.1.5.C1, 3.2.5.B1, 3.3.5.A1, 3.3.5.A2, 3.4.5.B1, 3.4.5.B2, 3.4.5.B3, 3.4.5.B4, 3.4.5.E1, 3.4.5.E2.

Further, the submitted materials for Science fail to address significant portions of Eligible Content and Alternative Eligible Content.

For Technology, the Applicant submitted two Code.org documents in place of curricular materials. No standards or grade levels were identified.

Social Studies: The Applicant submitted Year-at-a-Glance documents and unit assessments. The submitted documents are branded as documents from one of the existing schools that ASPRIA manages, Stetson. The submitted materials do not have evidence of planned instruction for any of the Social Studies standards in Kindergarten through Grade 5 as required by Chapter 4, Title 22 of the Pennsylvania Code.

In Grade 1, the submitted social studies curriculum materials were missing evidence of planned instruction for the following social studies standards: 5.1.1.A, 5.1.1.B, 5.1.1.C, 5.1.1.D, 5.1.1.E, 5.2.1.A, 5.2.1.C, 5.2.1.D, 5.3.1.A, 5.3.1.B, 5.3.1.D, 5.3.1.E, 5.3.1.F, 5.3.1.H, 5.3.1.I, 5.3.1.J, 5.4.1.D, 5.4.1.E, 6.1.1.D, 6.2.1.D, 6.2.1.E, 6.2.1.G, 6.3.1.D, 6.4.1.D, 6.5.1.E, 7.4.1.A, 8.2.1.A, 8.3.1.C, and 8.4.1.B.

In Grade 2, the submitted social studies curriculum materials were missing evidence of planned instruction for the following social studies standards: 5.1.2.A, 5.1.2.B, 5.1.2.C, 5.1.2.D, 5.1.2.F, 5.2.2.A, 5.2.2.B, 5.2.2.C, 5.2.2.D, 5.3.2.D, 5.3.2.H, 5.3.2.I, 5.3.2.J, 5.4.2.B, 5.4.2.C, 5.4.2.D, 5.4.2.E, 6.1.2.A, 6.1.2.B, 6.1.2.C, 6.1.2.D, 6.2.2.A, 6.2.2.B, 6.2.2.C, 6.2.2.D, 6.2.2.E, 6.2.2.F, 6.2.2.G, 6.3.2.A, 6.3.2.C, 6.3.2.D, 6.4.2.A, 6.5.2.A, 6.5.2.B, 6.5.2.C, 6.5.2.D, 6.5.2.E, 6.5.2.F, 6.5.2.G, 6.5.2.H, 8.3.2.B, 8.3.2.C, 8.3.2.D, and 8.4.2.C.

In Grade 3, the submitted social studies curriculum materials were missing evidence of planned instruction for the following social studies standards: 5.1.3.A, 5.1.3.B, 5.1.3.D, 5.1.3.F, 6.1.3.A, 6.1.3.B, 6.1.3.C, 6.1.3.D, 6.2.3.A, 6.2.3.B, 6.2.3.C, 6.2.3.D 6.2.3.E, 6.2.3.F, 6.2.3.G, 6.5.3.A, 6.5.3.B, 7.4.3.A, 7.4.3.B, and 8.1.3.A.

In Grade 4, the submitted social studies curriculum materials were missing evidence of planned instruction for the following social studies standards: 5.1.4.A, 5.1.4.B, 5.1.4.C, 5.1.4.D, 5.1.4.F, 5.2.4.A, 5.2.4.B, 5.2.4.C, 5.2.4.D, 5.3.4.A, 5.3.4.B, 5.3.4.C, 5.3.4.D, 5.3.4.E, 5.3.4.F, 5.3.4.G, 6.1.4.A, 6.1.4.B, 6.1.4.C, 6.1.4.D, 6.2.4.A, 6.2.4.B, 6.2.4.C, 6.2.4.D, 6.2.4.E, 6.2.4.F, 6.3.3.A, 6.3.4.B, 6.3.4.C, 6.4.4.A, 6.4.4.B, 6.5.4.B, 6.5.4.G, 6.5.4.H, 8.1.4.B, 8.1.4.C, 8.2.4.A, 8.2.4.B, 8.2.4.C, 8.2.4.D, 8.3.4.A, 8.3.4.B, and 8.3.4.C.

In Grade 5, the submitted social studies curriculum materials were missing evidence of planned instruction for the following social studies standards: 5.1.5.A, 5.1.5.B, 5.1.5.C, 5.1.5.D, 5.1.5.E, 5.1.5.F, 5.2.5.A, 5.2.5.B, 5.2.5.C, 5.2.5.D, 5.3.5.A, 5.3.5.B, 5.3.5.C, 5.3.5.D, 5.3.5.E, 5.3.5.F, 5.3.5.G, 5.3.5.H, 5.4.5.B, 6.1.5.A, 6.1.5.B, 6.1.5.C, 6.1.5.D, 6.2.5.A, 6.2.5.B, 6.2.5.C, 6.2.5.D, 6.2.5.E, 6.2.5.F, 6.2.5.G, 6.3.5.A, 6.3.5.B, 6.3.5.C, 6.4.5.A, 6.4.5.B, 6.4.5.C, 6.4.5.D, 6.5.5.A, 6.5.5.B, 6.5.5.D, 6.5.5.E, 6.5.5.F, 6.5.5.G, 6.5.5.H, 8.1.5.B, 8.2.5.A, 8.2.5.B, 8.2.5.C, 8.2.5.D, 8.3.5.A, 8.3.5.B, 8.3.5.C, and 8.3.5.D.

Arts and Humanities: The Applicant submitted Year-at-a-Glance documents for Music and Visual Arts for Kindergarten through Grade 8. For Kindergarten through Grade 2, the curriculum materials are fully aligned to PA Academics Standards for Arts and Humanities.
In Grade 3, the submitted curricular materials were missing evidence of planned instruction for the following Arts and Humanities standards: 9.2.3.H, 9.2.3.I, 9.2.3.J, 9.2.3.K, 9.2.3.L, 9.3.3.C.
In Grade 5, the submitted curricular materials were missing evidence of planned instruction for the following Arts and Humanities standards: 9.1.5.I, 9.1.5.J, 9.1.5.K, 9.2.5.G, 9.2.5.H, 9.2.5.I, 9.2.5.J, 9.2.5.K, 9.2.5.L, 9.4.5.C, 9.4.5.D.

Health, Safety and Physical Education: The Applicant submitted a curriculum document for K-8 physical education instruction. The curriculum document is aligned to PA Academic Standards for Health, Safety and Physical Education. But curricular materials are missing evidence of planned instruction for the following standards: 10.3.K.B1, 10.3.1.B1, 10.2.2.A1, 10.3.2.A1, 10.1.3.C, 10.1.3.D, 10.2.3.A, 10.2.3.B, 10.2.3.C, and 10.3.3.B.

ASPIRA did not submit curricular materials for the instruction of Environment and ecology (K-5), Career education and work (Grade 3, 5), and Family and consumer science (Grade 3) as required by Chapter 4, Title 22 of the Pennsylvania Code.

51. The Applicant did not demonstrate elements of a dual-language model across multiple subjects, as described in the Application. (CSO Report, pp. 2, 5) (EMDHP007824, EMDHP007827) (N.T. 17:17-22).

52. The Applicant presents inconsistent descriptions of the proposed academic program, curriculum, and instructional methods.

    b. Despite the Proposed Charter School's bilingual focus, the Application does not differentiate Hostos Prep from School District schools in this regard.

i. The Application states that the dual-language program would be "the only model of its kind in Philadelphia"; however, ASPIRA also states that the dual-language program proposed would be a replication of an academic program implemented at one of ASPIRA's existing schools, Eugenio Maria De Hostos Charter School. (CSO Report, p. 4) (EMDHP007826) (Narrative p.1) (EMDHP000003).

c. There are no required credentials for any of the School leadership to be bilingual. (Attachment 18, School Leader Documents) (EMDHP004302-EMDHP004313, EMDHP004318-EMDHP004326, EMDHP004329-EMDHP004333).

d. The Application does not demonstrate evidence of goals related to the bilingual programs.

i. The Applicant states that "the program incorporates specific materials and projects to develop greater familiarity with Hispanic cultures in the Caribbean and Latin America as well as with their communities in Philadelphia"; however, the submitted curricular materials do not align to the described academic program. (p. 8, Narrative) (EMDHP000010) (CSO, Report p. 4) (EMDHP007826).

Enrollment / Admissions Policy

53. The Applicant fails to describe whether enrollment preferences would exist.

a. While the Narrative identifies preferences being given to the Kensington and Olney catchments, the proposed Admissions Policy lacks a clear articulation of these preferences. (CSO Report, p. 2) (EMDHP007824).

b. Further, the Applicant fails to describe a rationale for why it would contemplate an enrollment preference that draws students from Stetson, an existing ASPIRA-managed charter school.

i. Given that Stetson's leadership is proposed to migrate to Hostos Prep, there is an inference that there may be efforts to redirect the applicant pool for grades 5-8 from Stetson, a middle school, to Hostos Prep and leave the applicant pool of Stetson to consist primarily of those applicants for grades 5-8 who were not admitted to or did not enroll in to Hostos Prep.

Facility

54. The Application identifies 4322 N. 5th Street, Philadelphia, PA 19140 as the proposed facility for Hostos Prep. This facility is owned by ASPIRA Community Enterprise, Inc. (ACE), a nonprofit corporation controlled by ASPIRA. Hostos Prep will outgrow its space at the proposed facility by the beginning of Year 2 and plans to provide portable classrooms or modulars. (N.T. 17:4-6, 40:2-8, 61:6-15).

a. Neither ASPIRA nor Hostos Prep have obtained a legal determination as to whether local zoning permits these modular units. (N.T. 64:12-65:6).

55. Hostos Prep will then need to relocate to a new location after Year 2 and has not identified a location for Year 3 and subsequent years. (N.T. 59).

a. Notwithstanding the proposed move after Year 2, the proposed lease for the space at ASPIRA's headquarters extends to 2027. (Attachment 41, Intent to Lease or Purchase, p.8) (EMDHP007280).

b. There is no way to be sure that the new location would be in the proposed target community and thereby serves the proposed target community. (N.T. 41:1-10).

55. ASPIRA failed to advise the families it solicited for Intent to Enroll Forms or other indications of interest of the proposed relocation after Year 2. (N.T. 40:9-41:10).

56. ASPIRA shifts risk to Hostos Prep regarding the maintenance of the proposed facility.

a. ASPIRA states that the maintenance of the facility is provided by ASPIRA via the Management Agreement; however, the Management Agreement states that the costs associated with said repairs are the responsibility of Hostos Prep. (Attachment 41, Intent to Lease or Purchase, p.14) (EMDHP007286-EMDHP007287).

b. The Lease Agreement states that the Tenant (who would be Hostos Prep) shall be responsible for the maintenance and repair of the facility, "whether such repairs be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen." (Attachment 41, Intent to Lease or Purchase, p.14) (EMDHP007286). This means that the risk of expensive long-term structural damage has been shifted from ASPIRA to Hostos Prep.

57. Pursuant to the Management Agreement, "Title to any and all equipment ("Equipment") provided by ASPIRA to School or placed by ASPIRA in School's facilities for ASPIRA's or School's use in connection with the Services shall remain the exclusive property of ASPIRA." (Attachment 11, Charter Management Organization Agreement, Section 13.1, p. 18) (EMDHP004240).

58. ASPIRA requires Hostos Prep to insure the Equipment, once again shifting risk away from ASPIRA and onto Hostos Prep.

Existing Operator

59. ASPIRA and the charter schools managed by ASPIRA do not have a track record of success in academics, organizational compliance, or financial management that lend themselves to further growth.

    a. In October 2019, the Board of Education nonrenewed the charters of Olney and Stetson after public hearings and receipt of public comment. The grounds for non-renewal for Olney and Stetson were rooted in failures related to Academic Success, Organizational Compliance and Viability, and Financial Health and Sustainability. (CSO Report, pp. 44, 242-243, 606-607) (EMDHP007866, EMDHP008064-65 and EMDHP008428-29).

    b. On February 15, 2022, CAB affirmed the nonrenewal of Olney and Stetson.

60. In voting to not renew Olney's charter, the Board relied on the September 2019 Hearing Officer Report and Supplemental Report, which made the following conclusions about Olney, as managed by ASPIRA:

    a. Olney failed to comply with material provisions of its charter; (CSO Report, p. 345) (EMDHP08167).

    b. Olney "failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted." (internal citations omitted). (CSO Report, pp. 44, 242, 243) (EMDHP007866, EMDHP008064-65).

c. The established violations were significant, material and fundamental and thereby warranted nonrenewal of the charter. (CSO Report, p. 345) (EMDHP008167).

d. Olney's students would "probably receive a better education elsewhere or at the same school under different management." (CSO Report, p. 345) (EMDHP008167).

61. Similarly, in voting to not renew Stetson's charter, the Board relied on the September 2019 Hearing Officer Report and Supplemental Report, which made the following conclusions about Stetson, as managed by ASPIRA. (CSO Report, pp. 44, 606 and 607) (EMDHP007866 and EMDHP008428-29).

a. Stetson failed to comply with material provisions of its charter;

b. Stetson "failed to meet applicable requirements for student performance, failed to comply with generally accepted standards of fiscal management and audit requirements, and violated applicable laws from which it has not been exempted."

c. The established violations were significant, material and fundamental and thereby warranted nonrenewal of the charter.

d. Stetson's students would "probably receive a better education elsewhere or at the same school under different management."

(CSO Report, p. 702) (EMDHP008524).

62. The Application lacks data points to demonstrate whether any ASPIRA-managed charter school, including Eugenio Maria de Hostos Charter School, the charter school upon which Hostos Prep is modeled, have maintained or improved performance and

compliance outcomes with the expansion of charter schools managed by ASPIRA. (CSO Report, p. 44) (EMDHP007866).

63. ASPIRA's goals related to attendance at Hostos Prep is unrealistic given trends at the existing charter schools managed by ASPIRA. (CSO Report, p.10) (EMDHP7832).

II. Applicable Law / Discussion

The Charter School Law, Act of June 19, 1997, P.L. 225, as amended, 24 P.S. §17-1701-A *et seq.*, ("CSL") 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 Board's review.

Against this backdrop, the Board examines the Application.

III. Analysis Under the CSL

A. The Applicant Has Failed to Demonstrate Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

The CSL requires a charter school to demonstrate "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). CAB has defined sustainable support as "support sufficient to sustain and maintain the proposed charter school as an on-going entity." *Catalyst Academy Charter School v. School District of Pittsburgh,* CAB Docket No. 2018-03, at 15. (internal citations omitted). This requirement is an "inherent variable" depending on the size of proposed school, community, and other factors. *Id.* A charter school is not required to demonstrate a certain percentage of support in each individual category (teachers, parents, community members, and students). *Id.* at 16. *See also Carbondale Area Sch. Dist. v. Fell Charter Sch.,* 829 A.2d 400, 405 (Pa. Commw. Ct. 2003). Rather, an applicant must demonstrate "a reasonable amount of support in the aggregate." *In Re: Appeal of Appeal of Phoenix Academy Charter School,* Docket No. CAB 1999-10, at 24. The appropriate measurement for sustainable support is against the initial opening and operation plan of the charter school. *In Re Bear Creek Community Charter School*, CAB Docket No. 2004-2, at 6-7.

However, in this case, the initial opening and operation plan includes an acknowledgment that the Applicant does not know where the school will be in 2 years and is based on Intent to Enroll forms from families apparently ignorant of that fact.

"…The proper community for determining sustainable support is the school district in which the charter school is to be located." *In re: Appeal of Legacy Charter School*, CAB Docket No. 2000-14, at 11 (internal citations omitted). The support documents, including petitions, should 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, at 12-13. "Form letters and pre-enrollment forms" may also be sufficient evidence of support. *Catalyst Academy Charter School v. School District of Pittsburgh*, CAB Docket No. 2018-03, at 16.

Here, ASPIRA failed to demonstrate a reasonable amount of support to sustain ongoing operations and to demonstrate supports in its targeted communities (Kensington and Olney). First, ASPIRA has only provided Intent to Enroll forms for approximately 73% of the proposed enrollment in Year 1. While this may seem like significant support, ASPIRA did not inform families completing these forms that the proposed Charter School would be moving possibly out of the catchment area in 2 years, or sooner, depending on whether the applicant can arrange for modular classrooms for Year 2. This does not show that there will be enough support to maintain Hostos Prep as an ongoing entity. Further, ASPIRA relies on Letters of Intent that it solicited from families who are currently on waitlists for other ASPIRA-managed charter schools. (N.T. 38:18-39:2). By relying on demand of other charter schools it manages, ASPIRA does not demonstrate a true and comprehensive understanding of its targeted community. Further, of the submitted Letters of Intent, 107 of the 504 grade-eligible students already attend ASPIRA-

managed charter schools. Thus, it is unclear whether those students would actually transfer to Hostos Prep. Further, the fact that students would want to leave an ASPIRA-managed charter school for another ASPIRA-managed charter school shows, as explained below, that ASPIRA has not properly managed its already existing charter schools. Thus, the Letters of Intent are not sufficient to show that there is ongoing support to keep Hostos Prep running. Looking ahead, regarding its attendance goal, the goal is unrealistic given trends at the existing charter schools managed by the ASPIRA. Additionally, three community members expressed concerns with granting the school a charter. (Citing the 12/21/2021 hearing, N.T. 67:19-74:18)

B. The Applicant Failed to Establish That It Has Properly Planned To Provide Comprehensive Learning Experiences To Students.

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

i. Governance Structure

Under the CSL, a charter school is an "independent school" and "must be organized as a public, nonprofit corporation." 24 P.S. § 17-1703-A; *see also* 24 P.S. § 17-1720-A. Various entities, including *inter alia*: teachers, parents or guardians of students who will attend the school, non-profit corporations, for-profit corporations, associations, or partnerships may establish a charter school. 24 P.S. § 17-1717-A(a). However, even though for-profit corporations and non-profit corporations can establish a charter school, "the legislature did not want to entrust the management and operation of the charter school itself to entities seeking to make money

from the school's management and operation; rather, that power is granted to the charter school's board of trustees who, as public officials have a single purpose to promote the interests of pupils." *W. Chester Area Sch. Dist. v. Collegium Charter Sch*., 760 A.2d 452, 468 (Pa. Commw. Ct. 2000), aff'd, 571 Pa. 503, 812 A.2d 1172 (2002)("*Collegium")*. This is evidenced within the CSL, as a charter school's board of trustees must, *inter alia*, have the "authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures.." and to "employ, discharge and contract with necessary professional and nonprofessional employes…" *Collegium*, 760 A.2d at 468 (citing and interpreting 24 P.S. § 17-1716-A(a)). The board of trustees must also "determine the level of compensation and all terms and conditions of employment of the staff." *Id.* (citing and interpreting 24 P.S. § 17–1724–A(a)).

Charter schools may contract out "certain management and administrative responsibilities" to management companies, including to for-profit corporations. *Id*. However, a charter school may only do so as long as: (1) the charter school itself is a non-profit corporation; (2) "the charter school's board of trustees have real and substantial authority and responsibility for the educational decisions"; and (3) the teachers are employees of the charter school itself. *Id*. *See also Insight PA Cyber Charter Sch. v. Dep't of Educ*., 162 A.3d 591, 595 (Pa. Commw. Ct. 2017). The Commonwealth Court has routinely applied what is now known as the *Collegium* test to determine whether charter schools properly entered into management agreements with management companies. *See e.g. Insight PA Cyber Charter Sch. v. Dep't of Educ*., 162 A.3d 591; *Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400, 406 (Pa. Commw. Ct. 2003); *Collegium*, 760 A.2d 452.[2]

[2] It does not appear that courts or CAB have applied the *Collegium* test to management agreements between non-profit management companies and charter schools. However, the logic of *Collegium* and

In applying the *Collegium* test, appellate courts require a review of the corporate documents for the charter school (i.e. the articles of incorporation; the proposed Bylaws of the charter school) and the proposed management agreement, if any. *Insight*, 162 A.3d at 598. *See also Carbondale*, 829 A.2d at 407-08. In reviewing corporate documents and determining whether a charter school's board of trustees maintains real and substantial authority in light of a management agreement or relationship, the Commonwealth Court has considered the following factors: whether a charter school is a division or part of a management company; whether the management company has the power to legally bind or operate the charter school, or vice versa; whether the management agreement was a "products of arms-length negotiations between separate and independent entities" (as is required by the CSL); whether the parties developed and entered into their relationship through "arms-length negotiations"; whether the charter school's board of trustees is independent from the management company; whether the board of trustees have financial interest in or receive compensation from the management company; whether the board of trustees retained power to negotiate the terms of the management contract; and whether the board could terminate the agreement. *Insight*, 162 A.3d at 596; 598, 601 n.9; *Collegium*, 760 A.2d at 469-70. These enumerated factors are not an exhaustive list of factors that must be considered; rather, they are factors examined by the Commonwealth Courts in *Collegium* and *Insight* given the specific facts of the case.

Here, ASPIRA dominates and controls Hostos Prep in all meaningful respects. Hostos Prep retains no real independence from ASPIRA. It is clear that the board of trustees lacks real and substantial authority over the Proposed Charter School. First, the relationship between Hostos Prep and ASPIRA and the agreements documenting that relationship, including the

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Insight is applicable to management agreements with non-profit management companies and thus will be applied here in analyzing ASPIRA's Management Agreement with the proposed Charter School.

Management Agreement, Staffing Agreement, and Lease Agreement are not the products of an arm's length relationship or negotiations. In fact, all ASPIRA managed schools employ the same independent counsel to help negotiate the terms of the Management, Staffing and Lease agreements. (ASPIRA Tech N.T. 141, 142:20-143:4) ASPIRA is positioned as the founding incorporator and "ongoing manager" of Hostos Prep. (p. 48, Narrative) (EMDHP000050). The founding Incorporator of Hostos Prep is Alfredo Calderon, the CEO of ASPIRA. Mr. Calderon even listed ASPIRA's headquarters at 4322 N. 5th Street. Philadelphia, PA 19140, as his address on Hostos Prep's Articles of Incorporation. Hostos Prep is proposed to be located at ASPIRA's headquarters for at least part of Year 1. ASPIRA's chairperson and HR Director is the president and secretary of Ace Dougherty, the company Hostos Prep will sign its lease with. The initial funds Hosotos Prep will need to pay for startups costs will likely be funded by an ASPIRA donation, as the applicant does not have any alternative plan(s) for paying its initial costs. Furthermore, the Board does not retain power to negotiate terms of the management contract because these are form agreements which ASPIRA cannot legally alter without approval from outside parties to the agreement.

Regarding the makeup of the proposed Board of Trustees for Hostos Prep, ASPIRA not only handpicked the proposed members, but the proposed members all have ties to ASPIRA. One proposed member, Kevin Glover, recently worked for ASPIRA as a personal finance teacher, which implies he had or may still have a financial interest in ASPIRA. Another proposed member, Joanna Otero-Cruz, has worked as a Director of Concilio, a Partner Organization of ASPIRA, which implies she may also have a financial interest in ASPIRA. Additionally, none of the proposed Board members currently live in or, with one exception, work in Hostos Prep's target community. None of the proposed Board members (other than Mr.

Glover from when he worked for ASPIRA) have any experience in public education or with respect to founding a charter school. Only five of a possible nine Board members have been identified, and one Board member (the PTO parent member) cannot be identified until several months after a charter is obtained.

Against this backdrop, the trustees, undoubtedly controlled by ASPIRA given their connections, will presumably make initial key decisions as to the terms and conditions of the Management Agreement with ASPIRA, the Staffing Agreement with ASPIRA, and the Lease with ASPIRA. In light of these circumstances, it would be difficult to argue that the negotiations over the terms in the agreements were truly "products of arms-length negotiations between separate and independent entities" and that the Board of Trustees is truly independent from ASPIRA. Additionally, the proposed school leader, Glenda Marrero, is also currently affiliated with ASPIRA, as she currently serves as the assistant principal of Stetson— an existing and fully operating charter school under a management agreement with ASPIRA.

ASPIRA's counsel drafted the proposed Management Agreement, the proposed Staffing Agreement, and the proposed Lease Agreement for use of the facility, which is owned by an ASPIRA affiliate. Further, the agreements are essentially form agreements that ASPIRA executed with other ASPIRA-managed charter schools. The only identified funds available to Hostos Prep to pay for its own independent review by its own counsel is a donation from ASPIRA. The level of service provided under the Management Agreement can be unilaterally decreased by ASPIRA based on outside factors beyond Hostos Prep's control, putting the risk of such factors completely on Hostos Prep. Finally, the Hostos Prep Board of Trustees has no real ability to terminate or not renew any of the agreements. In fact, ASPIRA's own CFO conceded that none of the many charter schools managed by ASPIRA have ever terminated or failed to

renew a management agreement with ASPIRA. Further, as explained below, these documents were even drafted to put all the risk of market conditions and other outside factors on Hostos Prep and to put virtually none of the risk on ASPIRA.

ii. Financial Operations & Budget

Under the CSL, a charter school's board of trustees must have the authority to decide matters related to the school's budget. 24 P.S. § 17-1716-A. Additionally, an applicant must "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." *In Re: Thomas Paine Charter School*, CAB No. 2009-04, at 12 (*citing Voyager Charter School*, CAB No. 2005-09). In other words, under Section 1717-A(e)(ii), a charter school must "provide a sound financial plan that will enable [the charter school] to operate." *In Re: Bear Creek Community Charter School*, CAB No. 2003-3 at 18-19.

Here, Hostos Prep failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including: 1) assuming that the percentage of special education students to total students enrolled in the proposed Charter School would range between 20 percent and 25 percent, and 2) assuming salary increases that differ between 1.5 percent annually and 2 percent every other year. These inconsistencies do not allow for a confirmation of the budget's viability.

Additionally, the Board of Trustees lacks meaningful authority to decide matters related to the school's budget, as is required by 24 P.S. § 17-1716-A. The proposed Management Agreement provides ASPIRA with responsibility to oversee all aspects of the Charter School's non-instructional operations, with a lack of detail on the actual fees. The fees under the Management Agreement pays only for C-level staff and intellectual property. The Management

Agreement requires a $53,000 deposit (presumably funded by the ASPIRA donation) before any service is rendered, and such deposit would be held by ASPIRA until the termination of the Management Agreement. Similarly, the ASPIRA Staffing Agreement requires a $433,656 deposit (which has no apparent source of funding) before any service is rendered, and such deposit would be held by ASPIRA until the end of the Staffing Agreement. The rates set forth in the Staffing Agreement are subject to increase or decrease upon notice by ASPIRA to Hostos Prep based on market conditions beyond the control of Hostos Prep, putting the market risk all on Hostos Prep. Finally, under the Bylaws, two Board members may approve expenditures up to $5,000 without full Board approval.

iii. Staffing

A charter school's board of trustees must have "the authority to employ, discharge, and contract with necessary professional and nonprofessional employees subject to the school's charter" and the CSL. 24 P.S. §§ 17-1716-A(a). Further, the board of trustees must "determine the level of compensation and all terms and conditions of employment of the staff." 24 P.S. § 17-1724-A(a).

Here, according to the ASPIRA Schools and ASPIRA Inc. Organization Chart (which appears to be a one-size-fits-all for all ASPIRA-managed charter schools),, (Attachment 8, Organizational Chart) the direct employees of Hostos Prep are limited to six positions: (1) principal, (2) assistant principal(s), (3) lead administrative assistant, (4) classroom teachers, (5) counselors, and (6) teacher aides. The remaining roles, including all school climate and culture staff, would be employees of ASPIRA. Specifically, for school climate and cultural staff, the following personnel work for and report to ASPIRA: (1) Special Programs Coordinator; (2) Director of Specialized Services; (3) Crisis Counselor; (4) Intervention Coordinator; and (5)

Compliance Coordinator. Proposed Principal Marrero testified at the second hearing that she would rely upon this group of personnel to establish and maintain school culture. However, according to the terms of the Management Agreement, the Principal would have no supervisory relationship over these staff members, which poses a significant problem in developing a cohesive school culture. Rather, according to both the proposed Management Agreement and Staffing Agreement, ASPIRA "shall be solely responsible for the recruitment, qualification and training of all such staff." Thus, Hostos Prep's Board of Trustees lacks the ability to recruit, hire, supervise, manage (other than be able to provide "reasonable direction") and fire the majority of the school's staff, with that responsibility falling to ASPIRA. Hostos Prep can only request that certain staff not be assigned to the proposed Charter School if Hostos Prep can provide good cause to ASPIRA.

Additionally, a review of fees demonstrates inconsistency across existing ASPIRA-managed charter schools and with the proposed Charter School's budget for the same positions. The unjustified variation in fees across existing ASPIRA-managed charter schools and inconsistency with the salaries in the Application raise significant questions regarding the extent to which the proposed Charter School is being charged a fair staffing rate for personnel in comparison to the other ASPIRA-managed charter schools.

Finally, the Confidentiality section of the Management Agreement requires employees of Hostos Prep to sign confidentiality agreements and does not acknowledge that certain information and records of Hostos Prep may be subject to requirements under the Federal Education Rights and Privacy Act ("FERPA") and the Pennsylvania Right to Know Law. (Attachment 11, Charter Management Organization Agreement, Section 8.1, 10).

iv. Curriculum

Under the CSL, a charter school's application, "must contain 'the curriculum to be offered.'" *In Re: Appeal of Environmental Charter School at Frick Park* (CAB No. 2007-0) at 6 (interpreting 24 P.S. § 17-1719-A(5)). "The curriculum of a school, any school, is one of the most significant building blocks of the educational program at that institution." *In Re: Thomas Paine Charter School* (CAB No. 2009-04) at 9. "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 school." *In Re: Appeal of Environmental Charter School at Frick Park* (CAB No. 2007-0) at 6.

A curriculum is defined 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. [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.* In turn, a charter school must adhere to Pennsylvania Core and Academic Standards. CAB routinely upholds the denial of charter applications when a school's curriculum does not align with Pennsylvania Standards. *See e.g. In re: Bear Creek Community Charter School Appeal* (CAB No. 2003-3) at 12("[t]he Application fails to explain how planned instruction fulfills Chapter 4 requirements." (*citing*) 22 Pa. Code § 4.11(h)); *Spartansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 35 ("Furthermore, the curriculum maps set forth the PA Core Standards to which they are aligned, but there are standards missing, or standards listed that do not exist, with the result being that the curriculum maps describe a

[3] Under 24 P.S. § 17-1732-A, n.8, 22 Pa. Code § 4.4(a), applies to charter schools, which includes regulations from the State Board of Education.

program that is not fully aligned with PA standards."); *Allentown Engineering Academy Charter School v. Allentown School District* (CAB No. 2014-01) at 20 ("At its most fundamental level, the [] proposed curriculum fails to satisfy the curriculum requirement of the CSL by lacking the planned instruction required by the Department of Education regulations for grades 6 through 8.").

Additionally, "CAB has found that the failure to describe how the nontraditional elements of the Charter School will be integrated into the curriculum renders the curriculum insufficient." *In re Appeal of Community Service Leadership Development Charter School,* Docket No. 2010-02) at 11 (*citing In re David P. Richard Academy Charter School*, Docket No. 2001-8). For example, in *Community Service Leadership Development*, CAB, in upholding the denial of an application, emphasized that although the school indicated that it would provide educational opportunities on the basis of gender, the curriculum did not "clearly articulate how gender-based instruction [would] be applied." *Id.* Similarly, in *Spartansburg Community Charter School*, CAB, in upholding a denial of an application, emphasized that the school's curriculum did not indicate where and how its agriculture and agribusiness themes and hand-on learning elements would be integrated into the school's programming. *Spartansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 39.

Here, Hostos Prep's curriculum fails to demonstrate that Hostos Prep would teach all required Pennsylvania Core and Academic Standards. Hostos Prep failed to submit a comprehensive set of curricular materials to demonstrate that Hostos Prep would meet grade level requirements as required by Chapter 4, Title 22 of the Pennsylvania Code. As enumerated in the Findings of Fact, the submitted materials did not demonstrate full alignment with the Pennsylvania Core and Academic Standards. *See* Findings of Fact Paragraph Nos. 48-52.

Second, despite the proposed Charter School's bilingual focus, the Application does not differentiate the proposed Charter School from School District schools in this regard. In fact, there are no required credentials for any of the proposed Charter School leadership to even be bilingual. The Application does not demonstrate evidence of goals related to the bilingual programs.

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. *See* 24 P.S. § 17-1719-A. The Board believes that the Applicant has failed to include or properly address several items of information as required in this section of the CSL.

i. 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.

As explained in more detail above, ASPIRA utterly controls and dominates Hostos Prep, and Hostos Prep retains no real independence. Additionally, the Board of Trustees does not have real or substantial authority for the educational decisions of the Proposed Charter School, as required by the CSL. Further, the applicant inconsistently names the members on the proposed Board in its application.

ii. Section 1719-A(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.

As explained in more detail above, the proposed curriculum fails to adhere to Pennsylvania regulations and academic standards.

iii. Section 1719-A(6)— The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.

Charter schools must abide by several requirements regarding enrollment, including *inter alia*, giving preference to students who reside in the district. 24 P.S. § 17-1723-A. The Applicant fails to describe a rationale for why it would contemplate an enrollment preference that draws students from an existing ASPIRA-managed school, Stetson. Given that Stetson leadership is proposed to migrate to Hostos Prep, there is an inference that this may eventually redirect the applicant pool for grades 5-8 from Stetson, a middle school, to Hostos Prep and leave the applicant pool of Stetson to consist primarily of those applicants for grades 5-8 which were not admitted or did not enroll at Hostos Prep.

iv. Section 1719-A (9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.

As explained above, the Applicant failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including: 1) assuming that the percentage of special education students to total students enrolled in the proposed Charter School to range between 20 percent and 25 percent, and 2) assuming salary increases that differ between 1.5 percent annually and 2 percent every other year. Further, the applicant cannot calculate how much they will have to pay in rent or relocation costs, once they outgrow the current proposed building. These inconsistencies and undetermined values do not allow for a confirmation of the budget's viability.

v. Section 1719-A (11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.

In evaluating denials and nonrenewal of charters, CAB has considered whether a charter school is "independent" of a service provider, including management companies, especially regarding lease agreements. In evaluating leases and similar agreements between a charter school and service provider, CAB has considered the following factors: whether the parties have

common board members or administrators; whether a written contract "delineates each entity's responsibilities to the other or payment terms"; whether one party is "enriched" by a "comingling of relationships" between the parties; whether the service provider has done business with other charter schools in Pennsylvania (doing additional business shows a lack of charter school independence); whether the agreement benefitted the service provider; and whether the agreement benefitted the charter school. *Pocono Mountain Charter School v. Pocono Mountain School District*, CAB Docket No. 2010-06 at 25-29*; I-Lead Charter School v. Reading School District,* CAB Docket No. 2016-05 at 30-35. Further, a charter school may only disburse funds for "charter school purposes only." *Pocono* at 25 (*interpreting* 24 P.S. § 17-1714-A(4)). As a result, a charter school cannot conduct its business to financially benefit a service provider.

Hostos Prep plans to open at ASPIRA's headquarters. However, based on its enrollment predictions, Hostos Prep will outgrow that space by the beginning of Year 2 and plans to provide portable, modular classrooms to accommodate the educational program. Neither ASPIRA nor Hostos Prep have obtained a legal determination as to whether local zoning permits these modulars. After Year 2, Hostos Prep will need to relocate to a new location, but it has not yet identified a location for Year 3 and subsequent years. There is no way to be sure that the new location will be in the proposed target community. Notwithstanding the proposed move, the proposed lease extends to 2027. Families solicited for Intent to Enroll Forms or other indications of interest were not told of the proposed relocation of the Charter School after Year 2.

The Applicant states that the maintenance of the proposed facility is provided by ASPIRA under the Management Agreement; however, the Management Agreement states that the costs associated with said repairs are the responsibility of Hostos Prep. Further, the Lease Agreement submitted as part of the Application states that Hostos Prep shall be responsible for

the maintenance and repair of the proposed facility, "whether such repairs be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen." This means that the risk of expensive long-term structural damage has been shifted from ASPIRA to Hostos Prep. Finally, pursuant to the Management Agreement, title to any and all equipment provided by ASPIRA to Hostos Prep or placed by ASPIRA in Hostos Prep shall remain the exclusive property of ASPIRA. ASPIRA requires Hostos Prep to insure the equipment, once again shifting risk away from itself onto Hostos Prep.

vi. Section 1719-A(15) - A report of criminal history record for all individuals who shall have direct contact with students.

Charter schools must include information on the criminal backgrounds of individuals who will have direct contact with students. Here, the Applicant fails to provide any information on the criminal background history of its identified personnel.

D. The Extent to Which the Charter School May Serve as a Model for Other Public Schools

The Board 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). As explained above, Hostos Prep has already failed to show that it is a model for other public schools, as its curriculum does not adhere to Pennsylvania regulations. See *Spartansburg Community Charter* at 32 ("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…" (internal citations omitted). Upon examination and evaluation of the deficiencies in the Application identified above, the Board concludes that the Charter School does not have the capacity to serve as a model for other public schools in Pennsylvania.

The Board further concludes that the facts articulated in the Existing Operator section above about the operation and performance of Olney and Stetson do not support approving another charter school to be managed by ASPIRA, at this time. Academic and operational results of charter schools managed by an existing charter management company are important and relevant to the Board's review to determine whether another charter should be granted which would be managed by the same charter management company. Adding another charter school would divert the resources and attention of ASPIRA from the existing charter schools it manages to the start-up operations of the new charter school.

The Board nonrenewed the charters of two charter schools managed by ASPIRA — Stetson and Olney. These nonrenewals were affirmed by the CAB. ASPIRA and the charter schools it manages do not have a track record of success in academics, organizational compliance, or financial management that lend themselves to further growth. In particular, the Application lacks data points to demonstrate whether any ASPIRA-managed school, including ASPIRA's Eugenio Maria de Hostos Charter School, the charter school upon which Hostos Prep is modeled, have maintained or improved performance and compliance outcomes with the expansion of charter schools managed by ASPIRA. ASPIRA's goals related to attendance at Hostos Prep is unrealistic given trends at the existing charter schools managed by ASPIRA. ASPIRA should focus its attention on improving the schools it currently manages, as opposed to opening another.

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ORDER

For the reasons set forth above, the Application to create the ASPIRA 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 S. Wilkerson

Joyce Wilkerson
President

Action Item - 3.

Title: Application for New Charter School: Philadelphia Entrepreneurial Development Academy Charter High School (Updated 3.4.2022)

Board of Education Meeting Date: 3/3/2022

WHEREAS, on or before November 15, 2021, the applicant for Philadelphia Entrepreneurial Development Academy Charter High 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 21, 2021 and January 24, 2022; and

WHEREAS, Applicant is seeking a charter from the Board of Education ("Board") to operate as a school starting in the 2022-2023 school year and serving at scale by the 2029-2030 school year Grades 9-12 with a maximum enrollment of 600 students; 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 Board 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).

Office Originating Request: Board of Education

ATTACHMENTS:

Description	Type
PEDACHS Adjudication	Supporting Document

THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION

IN RE: PHILADELPHIA ENTREPRENEURIAL DEVELOPMENT ACADEMY CHARTER HIGH SCHOOL

2021 CHARTER SCHOOL APPLICATION

ADJUDICATION

The Board of Education ("Board") adopts this Adjudication regarding the 2021 Charter School Application ("Application") filed with The School District of Philadelphia ("School District") by the Applicant for the Philadelphia Entrepreneurial Development Academy Charter High School ("PEDACHS", "Applicant" or "Charter School"). 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 Board currently authorizes approximately 85 operating charter schools serving approximately 67,000 students.

3. The Charter Schools Office ("CSO") assists the Board and the School District in meeting their legislative obligations under the Charter School Law ("CSL") and in promoting 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 Philadelphia.

4. On or about November 15, 2021, the School District received the Application filed by the Applicant. (PEDA 1-468).[1]

5. The Board 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 Board 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 Officer consistent with law."

6. Two public hearings were held on the Application, the first occurring on December 21, 2021, and the second occurring on January 24, 2022. The public hearings were each stenographically recorded.[2]

7. Supplemental materials were not accepted by the School District. Potential applicants were informed in the "Application Components and Guidelines For Submitting A New Charter School Application For Charter Schools Seeking To Open In The 2022-2023 School Year" form ("Application Form") published by the School District at https://drive.google.com/file/d/1b6QS_RFl-HjFCuZZ2TGPPGStFN1FetqH/view, as follows:

> Applications must be complete upon initial submission. No supplementary materials will be accepted or considered after submission of the application. All

[1] The record in this proceeding will be referred to by reference to the Bates Stamped number beginning with the prefix "PEDA".

[2] The Notes of Testimony from the two hearings will be referred to as "[Date of hearing] N.T. [page number]."

> documents, policies, and procedures submitted should be specific to the proposed charter school . . ."

(PEDA 832).

8. Applicants were also reminded at the December 22nd and January 24th hearings that because the CSO and the Board needs sufficient time to review all of the materials submitted by each applicant, no supplemental application materials would be accepted from any applicant and that the concluding document submitted by the applicant should focus on the information that is already part of the record. (12/21/21 N.T. 9; 1/24/22 N.T. 6-7).

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

a. The Application including all submitted attachments, marked as Exhibit 1 (PEDA 1-468);

b. A Powerpoint submitted by the Applicant at the first hearing, marked as Exhibit 2 (PEDA 469-484);

c. A list of individuals who signed up and provided public comment at the first hearing, marked as Exhibit 3 (PEDA 485);

d. The CSO's written Evaluation Report and accompanying documents, marked as Exhibit 4 (PEDA 486-724);

e. Legal ads reflecting publication of the hearings (PEDA 725-726);

f. Written public comments received by the public comment deadline established by the School District (PEDA 727-736);

g. The concluding document filed by the Applicant on February 3, 2022, following the second hearing (PEDA 737-829);[3]

h. The School District's Application Form found at https://drive.google.com/file/d/1b6QS_RFl-HjFCuZZ2TGPPGStFN1FetqH/view (PEDA 830-874); and

i. Transcripts from the hearings held on December 21, 2021 and January 24, 2022.

General Information

10. The name of the proposed Charter School is "Philadelphia Entrepreneurial Development Academy Charter High School". (PEDA 1).

11. The Applicant seeks a five-year charter for the school years 2022-2023 through 2026-2027. (PEDA 1; 1/24/22 N.T. 24).

12. The Charter School would open in year 1 with 300 students in grades 9-11, with 100 students in each grade. Twelfth grade would be added in year 2. At scale by the 2029-2030 school year, the Charter School seeks to operate a grade 9-12 school with 600 students. (PEDA 1, 13, 410; 1/24/22 N.T. 24-25). The inconsistent representation on PEDA 5 is not accurate.

13. The lead applicant, Bernard X. James, III, is currently in graduate school for human resources management at Georgetown University School of Continuing Studies, scheduled to graduate in May 2022. He has a bachelor's degree from Morehouse College in business administration, which he received in May 2020. (PEDA 6, 201; 1/24/22 N.T. 28-29). Mr. James described himself in the Application as a "serial and social entrepreneur and grad student". (Id.)

[3] The Applicant's Concluding Document contains approximately 81 pages of supplemental information about proposed courses that was not previously provided to the School District or included in the Application. (PEDA 737-818). Submission of this information violates the clear and unequivocal instructions provided to the Applicant both before and during the hearing process regarding supplemental materials and information. For these reasons, this supplemental information is not being considered.

14. Mr. James is proposed to be PEDACHS's Chief Executive Officer ("CEO"), the top administrator operating the Charter School. (PEDA 1; 1/24/22 N.T. 27-28).

15. Mr. James has no experience working in public education and does not possess any K-12 education degrees, teaching or other certification, or other educational credentials. (1/24/22 N.T. 28).

16. Mr. James is the only member of the six-member founding coalition who would actually be employed by PEDACHS. One of the other founding members, his mother, Dr. Sharmon James, is a school psychologist employed by the Franklin Towne charter schools. Dr. James made it clear during the hearing that she has no intention of leaving the employment of Franklin Towne schools before her retirement and would not work for PEDACHS. (1/24/22 N.T. 32, 37-38, 41-42).

17. The Application did not identify any other individuals besides Mr. James who would work for the Charter School. During the second hearing, Mr. James identified four additional individuals who had been identified as potential employees of PEDACHS in the roles of Director of Student Services, Dean, Director of Entrepreneurship, and security, all of which would likely be non-professional employee positions. Some of these positions would not be staffed until years 2 or 3 of the charter. (1/24/22 N.T. 42-43).

18. The applicant has not identified anyone with K-12 education experience who would be employed by PEDACHS in any role.

19. The Applicant copied portions of the content of the Application from third parties, without attribution or permission. For example, portions of the narrative describing the educational programming to be offered has been copied from the ASPIRA Bilingual Business, Finance, and Technology Charter High School ("ASPIRA Tech") application filed in November 2020. In addition, the Student Handbook and Code of Conduct is copied from Franklin Towne Charter High

School ("FTCHS"). Neither ASPIRA, Inc. of Pennsylvania, the applicant for ASPIRA Tech, or FTCHS are involved in the submission of the PEDACHS application.[4] The Applicant admitted during the hearing process that portions of the Application had been copied from other sources that the Applicant believed were "public records"; that the Applicant used those other's content "as a template"; and used the content without permission from those other entities. (1/24/22 N.T. 60-64). That alone is a concern. A secondary problem resulting from the copying of content is that the Application is filled with inconsistencies because the copied content does not necessarily match up to the Applicant's prepared content or programmatic intentions. Therefore, the inconsistencies make it impossible to understand what the expectations are in the way of curriculum, programming and operations. A third concern that the copying raises is whether the Applicant is truly prepared and competent to independently operate a public charter school.

Curriculum and Educational Programming

20. The proposed mission of the Charter School is to "to educate inner city youth in Philadelphia to define life on their own terms, through real-world business and technological schooling, programs, and mentoring opportunities to be prepared for life after high school." (PEDA 1, 4).

21. Priorities associated with that mission are identical to the information provided in the ASPIRA Tech application. (PEDA 489).

22. The Fact Sheet indicates that PEDACHS would be a "project based" school, which was also reiterated during the first hearing presentation. (PEDA 1; 12/21/21 N.T. 53). Project-based

[4] Additional content from the Pride Academy Charter School application submitted to the School District in November 2020 is also copied and included without attribution in the Application. The Board understands from the Applicant's Concluding Document that Omnivest provided content to both the applicant for the Pride Academy submission and the Applicant here (PEDA 826-828), and therefore the Board does not raise the copying of the Pride Academy content as a deficiency. Nevertheless, the Applicant failed to make appropriate changes to the language in the PEDACHS Application to remove all of the references to Pride Academy Charter School or "PACS". (*See, e.g.* PEDA 69).

learning is not evident in the curriculum or the narrative description of educational programming. In other places, the curriculum is described as a "traditional core curriculum" without any reference to project-based learning. (PEDA 10).

23. The Charter School would have four pathways for students to take: Youngpreneur, Pathway to College, Innovation or Critical Thinkers (Life Skills). (12/21/21 N.T. 57-59). Very little information is provided about how students satisfy each of the pathways to graduate vis-à-vis the credit requirements or how PEDACHS will support students in completing the requirements of a pathway. The CSO also raised the following concerns regarding the pathways, which the Board finds to be supported by the record and adopts:

> The Application does not provide concrete plans for how it proposes to support students in completing the requirements of a pathway. Additionally, the pathways do not seem to [be] equal in the time and effort or resources that would be requirement for a student to achieve said pathway. For example, it is unclear how many hours would be required of a student to dedicate to an internship or job in the Youngpreneur track versus the requirement to be accepted into an accredited college or university if on the Pathway 2 College track.

(PEDA 495).

24. Those students who select the Youngpreneur pathway, must seek and acquire an internship or a job with a partnering small or big business. (12/21/21 N.T. 57). The Applicant did not identify any small or big businesses that it would partner with for internships, or how such relationships would be built between now and the opening of the school for 11th graders. The pathways begin in 10th grade. (1/24/22 N.T. 81).

25. The top priority for PEDACHS over the next five years is to "serve a traditionally underserved population through additional specialized service supports, community resources, and post-secondary focused programming. This may and should result in higher earned income for graduates, professional and technical training for students interested in vocational pathways,

professional and academic training for students interested in higher education, and marketable skills such as bilingualism." (PEDA 4). However, the Application does not reflect the specialized service supports, community resources, or post-secondary focused programming that would be offered. In addition, the Application does not identify what specific opportunities would be provided to students for bilingual education, professional and technical training for students interested in vocational pathways, or professional or technical training for students interested in higher education.

26. The narrative also proposes to offer students exposure to business education, technological information systems, innovative technology instruction, world language education, fine arts exposure, awareness of nutrition, participation in physical fitness, and the development of strong moral character. (PEDA 5, 7, 10, 23). However, the Application does not reflect or provide any information as to when and how students will be offered such exposures.

27. The Application states: "At PhilaEDA, a high school entrepreneurship class is different from an average high school business class." (PEDA 11). No information is provided in the Application to support the accuracy of this statement, such as curricular documents reflecting planned instruction for any entrepreneurship class.

28. The Application also references vocational and technical programming and "CTE coursework" that would be offered to students. (PEDA 62). This content was taken from the ASPIRA Tech application. The Applicant is not proposing any "CTE" or vocational and technical courses in the course descriptions provided.

29. PEDACHS would offer block scheduling, with four, 90-minute blocks per day plus one, 30-minute advisory and a 40-minute lunch. (PEDA 15).

30. A curriculum was not submitted for any course or grade to be offered at the Charter School. The document included in Appendix 1 is a course of studies, which is essentially a course listing for high school grades. (PEDA 79-110). While a few of the courses include a description of expectations or an overview of units of studies, the materials provided did not evidence planned instruction in any subject area such as the inclusion of a scope and sequence, curriculum maps, unit plans, evidence of alignment with the applicable Pennsylvania standards, or how students would be assessed. The Applicant admitted that the documents in Appendix 1 did not reference or incorporate the State standards in any subject area. (1/24/22 N.T. 70-71).

31. The information in Appendix 1 was compiled by Dr. Sharmon James and Andrea Allen, an individual who works for the Boeing Company in human resources and project management positions, neither of whom have certifications or background as school principals or supervisors of curriculum and instruction or curriculum writing experience. (1/24/22 N.T. 66-68).

32. It is unknown who would actually prepare the curriculum if a charter would be granted. No one is proposed to serve in a curriculum supervisor or development role. Nor are expenditures in the budget to hire someone to prepare curriculum.

33. Appendix 1 mentions approximately 65 individual courses that students could take. (PEDA 79-110). The Application does not identify which of these courses would be available to students in year 1, when the charter school is proposed to open with 300 students in grades 9-11 but only 12 teachers.

34. Nor did the Applicant address how 12 teachers would be assigned given the more specific certification requirements for high school grades and subjects and the block scheduling structure proposed by the Applicant. The Applicant could not answer these questions with any detail or evidence of thoughtful planning during the hearings. (1/24/22 N.T. 78-79).

35. The College and Career Readiness course references 21st Century skill standards adopted by the State of Washington. (PEDA 107).

36. The Introduction to Technology course references preparing students for intermediate level technology courses in middle school. (PEDA 103). The Charter School would not serve middle school grades.

37. There are no health courses listed in Appendix 1 of the Application.

38. To graduate from PEDACHS, a student must earn 28 credits, which is significantly higher than the School District's 23.5 credit requirement. (PEDA 21-22, 495). The Applicant did not address a specific plan for credit recovery, other than to say that students "must use a platform approved by the Local Education Agency (LEA)." (PEDA 23). The lack of information surrounding credit recovery reflects poor planning, given that students would enroll in the Charter School from other schools (with differing credit requirements) in year 1 in grades 10 and 11 and likely be under-credited to graduate compared to the Charter School's higher credit requirement.

39. There are no expenditures in the budget for Saturday or weekend school, which was a credit recovery option mentioned by the Applicant when questioned at the hearing. (1/24/22 N.T. 88-89).

40. Students must complete one of the four pathways to graduate (PEDA 22); however, the Application does not identify the components of each pathway that students will have to meet, or how the pathways intertwine with the credit requirements. (PEDA 495).

41. The applicant's discussion about promotion and retention does not reference credit attainment, a deficiency given that this is a high school program where promotion would be driven by earning credits. (PEDA 20-21).

42. The CSO reviewed the curricular information submitted by the Applicant to determine if the materials submitted contained a complete curriculum, evidence of planned instruction aligned

to Pennsylvania standards, and establish that the unique elements proposed by the Applicant are reflected in the submission. The CSO's "Curriculum and Educational Plan" findings have been reviewed by the Board, are found to be credible and supported by the record, and are hereby adopted and incorporated herein in their entirety. Those findings include the following:

> The Application does not include a comprehensive set of curricular materials to demonstrate that the proposed Charter School would meet grade level requirements as required by Chapter 4, Title 22 of the Pennsylvania Code. A curriculum must contain tangible resources to include goals, assessments, instructional strategies, expectations, and resources for teaching and learning. 22 Pa. Code 4.12(d) states that "A school entity's curriculum shall be designed to provide students with planned instruction needed to attain these academic standards."
>
> ***
>
> The submitted materials provide a brief overview or course descriptions including unit of study titles and course expectations for the courses the proposed Charter School proposes to implement across Grades 9-12. The submitted materials did not demonstrate full alignment with the Pennsylvania Core and Academic Standards[.] All standards were missing.
>
> ***
>
> The curriculum materials submitted did not substantiate the Applicant's claim to provide an entrepreneurial, hand[s]-on, or project-based curriculum and instruction.

(PEDA 489-492).

43. Language about the Applicant's performance goals and assessments plan was copied from the ASPIRA Tech application, thereby calling into question the accuracy of the Applicant's planning specific to the proposed mission for this Charter School. (PEDA 493-494).

44. Inconsistent references are made to the number of school days (180 vs. 184) to be included in the school calendar. (PEDA 1, 15).

45. The school calendar submitted by the Applicant does not reflect any in-service or Professional Development ("PD") days prior to the start of the school year. (PEDA 111). The PD plan lacks detail about specific content, goals and opportunities that would be made available to

staff, does not reflect mandated trainings, and further lacks detail about an induction program. (PEDA 210-215). The document does not contain any information about what specific learning opportunities would occur, when those opportunities would occur, who would provide the PD, etc.

English Learners and Students with Disabilities

46. Inconsistent information is provided by the Applicant regarding its anticipated student body of English Learners ("EL" or "ELL"): 13% of all students on PEDA 42 and 10% of all students on PEDA 62. Similarly, inconsistent information is provided about the anticipated percentage of students with disabilities: 25% on PEDA 42 and 15% on PEDA 61.

47. Neither an ELL Coordinator nor Special Education Coordinator will be hired until year 2. (PEDA 14).

48. The Special Education Coordinator is responsible for writing Individualized Education Plans ("IEPs") and overseeing the implementation of special education services, as well as managing outside contractual services that support special education students. (PEDA 23, 32). The Application does not identify who would perform this important and mandatory services in year 1 when the Charter School would not employ a Special Education Coordinator.

49. The following CSO finding is incorporated herein: "The applicant does not provide any plans, strategies, or details on how students with differing disabilities and needs will be served and supported after being identified. There is no discussion of strategies, services, or curriculum adjustments in relation to supporting students with disabilities overall, and the Applicant did not address the challenge of serving each students' specific needs. As a result, the Applicant does not outline how students with high and low incidence disabilities will be supported." (PEDA 495-496).

50. The following CSO finding is incorporated herein: "The program models outlined in the application to serve English Learners do not align to the Pennsylvania Department of Education's approved program models or acknowledge Pennsylvania's English Language Development Standards for English Learners." (PEDA 496).

Student Enrollment, Health, Safety, Discipline, and Truancy

51. The Student Handbook and Code of Conduct ("Code") has been copied from FTCHS without permission. The Code as submitted contains information for FTCHS, a wholly separate charter school unaffiliated with PEDACHS, such as the name of employees and administrators of FTCHS, the location of FTCHS, operational information about events and activities at FTCHS that have no relationship to PEDACHS, etc. (PEDA 266-315).

52. The disciplinary description requires parents of suspended students to meet with the Principal or Dean before being reinstated to attend class, which violates Chapter 12. (PEDA 284, 292).

53. The Code reflects a traditional discipline model and not the restorative justice model described in the narrative. (PEDA 509).

54. The Charter School proposes to refer an expelled student to the School District for appropriate placement if the expelled student is unable to find an alternative education program, which violates Chapter 12. (PEDA 55).

55. Descriptions of the Positive Behavior Support system inconsistently differs within the narrative, likely because some content was copied from other sources. (*Cf*. PEDA 29, 32, 51). Some of the rewards for good behavior included extra recess, which is inappropriate for a high school program. (PEDA 32, 51).

56. The Truancy Policy is copied from FTCHS's Truancy Policy and Program Description. (PEDA 510).

57. Climate support staff are to include security personnel (PEDA 45), but no such employees or contractors are budgeted in year 1. (1/24/22 N.T. 45).

58. The Parent/Student Complaint Policy is copied from some other source because it identifies a Federal Programs Coordinator by name, which is a different name than the name that appears in the Code. (PEDA 315, 405). Neither individual is affiliated with PEDACHS, which is not proposed to have a "Federal Programs Coordinator."

59. The Admissions Policy includes provisions for zip code and founders preferences for enrollment that, in other parts of the application and at the hearing, the applicant represented it would not have. (*Cf.* PEDA 1, 50-51, 61, 264-265). These inconsistencies and deficiencies are discussed in the CSO report and incorporated herein. (PEDA 508).

60. The Admissions Policy also refers to the charter school's website as www.franklintowne.org, which is a website for a completely different entity. (PEDA 264). The Admissions Policy also does not provide any details on how the charter school would create and enroll from its waiting list. (PEDA 264-265, 508).

61. The student health services description in the narrative is inconsistent with Pennsylvania requirements for medical and dental exams. (PEDA 504).

Facility

62. The Charter School would be located 5210-5218 N. Broad Street, Philadelphia 19141 located in Olney neighborhood in the former Cristo Rey High School. (PEDA 75).

63. A letter of intent to lease is provided, signed by Father Labatorio, Pastor of Our Lady of Hope Parish, and Mr. James. (PEDA 454-462). The letter includes proposed rent and other leasing arrangements, including the following representation:

> Tenant's analysis of the current building condition has estimated that approximately $100,000 will be required to make nonstructural cosmetic improvements and repairs and maintenance, all of which will be paid for by the Tenant at Tenant's sole cost and expense.

(PEDA 455).

Financial Planning and Staffing

64. The only individual identified in the Application for employment with the Charter School is Mr. James. No clearances or background checks were provided for Mr. James. (1/24/22 N.T. 46-47).

65. The Hiring and Personnel Policy does not identify the provision of all legally required clearances as a condition of hiring. (PEDA 208).

66. The Application did not contain job descriptions for any position other than the CEO. Nor did the Application indicate who would fulfill the human resources functions for the Charter School. At the second hearing, the Applicant stated that the business manager would fulfill those functions. (1/24/22 N.T. 30-31).

67. The CEO job description in Appendix 20 of the Application appears to have been copied from some other source because the job description indicates the CEO reports to the "Principle (sic) and the Chief Academic Officer". (PEDA 203-204). PEDACHS is not proposing to employ a Chief Academic Officer, and the organizational chart submitted does not reflect the CEO reporting to the Principal.

68. The CEO job description reflects responsibilities for developing curriculum, supervising and mentoring building staff, supervises student performance, implements and evaluates

professional development programs, etc. (PEDA 203-204). All of these job responsibilities would fall under a principal certification in Pennsylvania, which Mr. James does not possess and is not in the process of acquiring.

69. Various important administrative positions are not funded in the proposed budget until year 2 or year 3, such as the Director of Operations, ELL Coordinator, and Special Education Coordinator, without any explanation of who would fulfill the functions of these positions in years 1 or 2.

70. The Applicant could not explain how the staffing allotment of 12 teachers in year 1 would be distributed among the courses and grades proposed for year 1. Having only 12 teachers for 300 high school students over three grades appears insufficient given the corresponding number of course offerings identified in the Application, particularly given the large number of electives and science courses.

71. In addition, the teacher to student ratio promised in the Application (1:16) is not reachable based upon the actual number of teachers in the budget. (PEDA 14, 492).

72. Various positions are mentioned in the application documents that are not included in the staffing chart or the budget: Assistant Principal, security employees (either employees or contractors), Chief Operating Officer, Director of Special Education, Chief of Educational Support Services, Parent and Community Liaison, Director of Human Resources, Senior Director of Specialized Services & Special Education, HR Clerk, Chief Academic Officer, and Director of School Operations. (*Cf.* PEDA 14 to PEDA 33, 43, 45, 47, 48, 61, 203, 322, 436-437).

73. The Application does not identify who would be responsible for PIMS child accounting to the Pennsylvania Department of Education, and the applicant could not answer that question during the hearing. (1/24/22 N.T. 56-58).

74. The applicant will allow staff to choose between participation in the Public School Employee Retirement System ("PSERS") or in a 403(b) retirement plan with a 5% employer contribution. (PEDA 49, 243). However, the applicant has only budgeted for 50/50 participation in these plans. (PEDA 70). If more than 50% of the employees chose to enroll in PSERS, which has a significantly higher employer contribution rate, PEDACHS will have insufficient funds to operate.

75. The Internal Controls Policy appears to be written for a different entity because it refers to the "District" and positions that are not included in the Staff List. (PEDA 418-443).

76. The Travel and Business Expense Reimbursement Guidelines are written for "PhilaEDU", an unidentified entity. (PEDA 444).

77. In addition to the staffing inconsistencies identified above, the budget does not include any expenditures for student transportation for special education students, internships or a contracted physician. (PEDA 404-416, 504-505, 515).

78. Only $20,000 has been budgeted for renovations, which is $80,000 less than the Applicant's representations in the letter of intent to lease reflecting renovation needs of $100,000. (PEDA 406-416).

79. The proposed health care coverage identified in the Application reflect benefits that are not the same as the health care benefits that would be offered to an employee of the School District. Examples of the differences are provided in the CSO report. (PEDA 234-238, 507).

Governance Issues

80. An entity called "PhilaEDA, Inc." is identified in the Fact Sheet as the nonprofit applicant for the Charter School. (PEDA 2). The Application states that PhilaEDA, Inc. will incorporate the Charter School. (PEDA 37).

81. PhilaEDA, Inc., is an existing nonprofit created by Mr. James to provide mentoring and other services to youth. Articles of Incorporation ("AOI") for PhilaEDA, Inc. are included in the Application and reflect a state purpose to open a charter school. (PEDA 133-136). The AOI for PhilaEDA, Inc. contain a dissolution process that is inconsistent with the Charter School Law. (PEDA 135).

82. At times within the Application, PhilaEDA, Inc., is described as having management functions over PEDACHS (PEDA 37, 43), even though the Application also repeatedly states that PEDACHS would not have a management company (PEDA 40, 164-165). No management agreement was submitted.

83. When asked if PhilaEDA, Inc., would be the entity that would hold the charter if a charter were granted, Mr. James ultimately stated that a separate non-profit corporation for PEDACHS would be created to hold the charter but that the incorporation process for that entity had not yet started. (1/24/22 N.T. 36-37). Therefore, PhilaEDA, Inc. would not hold the Charter, and AOI for PEDACHS have not been submitted with the Application.

84. A separate board will be established to operate PEDACHS, separate from the PhilaEDA, Inc. members. (PEDA 37).

85. The Application does not identify any board members to serve on PEDACHS board. In the section where resumes of board members were to be provided, the Application states: "[PEDACHS] is still seeking and building relations with valuable and competent community leaders, corporate executives, and other high level candidates to sit amongst the board of the School." (PEDA 140).

86. Mr. James is also the sole employee of another entity, Worknard, an entity created in the District of Columbia to provide free life coaching and personal training services to students.

(PEDA 383-388; 1/24/22 N.T. 48). Worknard is proposed to provide internship opportunities and free life coaching and personal training services to students at PEDACHS through a "General Agreement" that identifies Mr. James as the contact person for both Worknard and PEDACHS. (PEDA 383-388). When Mr. James was asked at the second hearing why he would not be providing those services to students within his duties or role as CEO of PEDACHS, as opposed to Worknard providing such services, he could not answer the question. (1/24/22 N.T. 48-51). That scenario raises conflict concerns because Worknard, and in turn Mr. James, could be receiving a pecuniary benefit from the provisions of services, even if the services are donated (and therefore possibly deductible by Worknard as a tax benefit). It is unclear how Worknard could provide internship opportunities to PEDACHS students when Mr. James is the sole employee of Worknard and he would also be serving full-time as the CEO of the Charter School.

87. Worknard was identified as the trade name of PhilaEDA, Inc. (PEDA 139); however, during the hearings, the Applicant clarified that this representation was a mistake and had been rectified. (1/24/22 N.T. 52).

88. The Bylaws submitted in the application are for PEDACHS and call for a governing board of 7-11 trustees. (PEDA 144-159).

89. The Bylaws also call for an Executive Committee consisting of 5 members, which could constitute a quorum of the entire board. The Bylaws permit the Executive Committee to take action on behalf of the board, but do not require the Executive Committee or other committees to meet in accordance with the Sunshine Law. (PEDA 145)

90. The board committees identified in the Bylaws (PEDA 147) differ from the board committees identified in the narrative (PEDA 37, 39).

91. The authority granted to the Personnel Committee to make final decision related to hiring, firing and disciplinary action is inconsistent with the CSL and the Sunshine Law. (PEDA 147).

92. The conflict of interest policy (PEDA 160-163) does not reference or include conflict of interest provisions in compliance with the Pennsylvania Public Officials and Employees Ethics Act ("Ethics Act").

93. The narrative includes references to a "Service Level Agreement" with an unknown entity. (PEDA 44, 60). It is believed that the content in these sections was taken from the ASPIRA Tech application, which referenced a Service Level Agreement with Aspira, Inc. of Pennsylvania. Inclusion of this content is wholly inconsistent with what the Applicant is proposing.

Community Support

94. The Applicant inaccurately states that the Charter School would be located in the Northwest section of Philadelphia when the proposed facility is actually located in North Philadelphia. (PEDA 499).

95. Twelve (12) letters of support are included in the Application. (PEDA 368-391). None of the letters reflect interest from any elected officials or parents. One of the letters is from Omnivest, the Charter School's proposed business services provider. (PEDA 374-379). One of the letters is from one of the founders. (PEDA 372). Some of the letters do not reflect or indicate a Philadelphia address or association.

96. The Applicant did not provide any information that any student or family is interested in enrolling in the Charter School.

97. None of the Applicants live in the School District. (PEDA 1, 120-132).

98. A change.org petition is represented to include 303 "signers," but the none of the signers are identified other than four comments included in the Application. It is not known whether the signers are residents of Philadelphia. (PEDA 392-396).

99. The Board received one (1) supportive written public comment from a resident of Philadelphia. (PEDA 732). No one spoke in support of the Application at the first public hearing. Multiple people spoke or wrote in opposition to the Application. (PEDA 727-731, 733-735; 12/21/21 N.T. 66-74).

100. The CSO found, and the Board concurs, that the Applicant demonstrated a lack of understanding and consideration for the needs of the surrounding community of the proposed Charter School and future students. In the section of the Application where applicants must describe the student health supports and services that would be provided, the Applicant copied language from the ASPIRA Tech application regarding partnering with various community and health agencies. There is no indication that the Applicant has established the community partnerships outlined therein. (PEDA 497-498). The Applicant also copied the language in the "Targeted Community Needs" section and the language about local resident and stakeholder needs and priorities from the ASPIRA Tech application. (PEDA 512).

II. Evaluation Standards

The 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 Board 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 must show that "the charter school enjoys reasonably sufficient support from the community". *Brackbill v. Ron Brown Charter School*, 777 A.2d 131, 138 (Pa.Cmwlth. 2001).

Based upon a review of the totality of the record, the Board concludes that the Applicant has not taken steps to garner sustainable support for the Charter School from those who live in Philadelphia and particularly the targeted community, given the size of the proposed Charter School (300 students in year 1), the size of the community in which the Charter School would be located (the City of Philadelphia), and the volume of support reflected in the record. 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 charter 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, the capability of providing comprehensive learning experiences to students under the standards articulated by CAB and the appellate courts in Pennsylvania.

Governance Structure

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

Here, the Applicant has not incorporated a non-profit entity to hold the Charter, did not submit AOI for such an entity, and did not have a basic understanding of the requirements to do so. The inconsistent statements within the Application about whether the Charter School would have a management company or not, and what entity would serve in that role, also reflect a

fundamental lack of understanding about requirements and expectations for charter schools in Pennsylvania.

Who will govern the Charter School is unknown. Not a single board member has been identified to the School District for an entity that anticipates opening as a public charter school funded by taxpayer money in less than six months. Only one of the founders intends to be employed by the Charter School, in the role of CEO; however, he has no experience or credentials in K-12 public education, and no transferable experience managing a corporation or other entity. No one with educational credentials or experience has been identified to date.

The Bylaws provisions noted in the Factual Findings above contain provisions that are inconsistent with a public school operating pursuant to the CSL and the Sunshine Act. Bylaws provisions allowing the Executive Committee or other committees to take on authority of the full board are not in compliance with the CSL, 24 P.S. § 17-1716-A. Those provisions are exacerbated by the lack of information as to whether committees would meet in public.

In addition, the Conflict of Interest policy provided does not reflect charter school governance grounded in the requirements of the Ethics Act. That concern is exacerbated by the potential conflicts that would exist should other corporations (PhilaEDA, Inc., and Worknard) associated with Mr. James perform services for the Charter School without any clear delineation of Mr. James' role and the overlapping duties that he would be performing while also serving as the Charter School's CEO.

These governance concerns establish grounds for denial of the Application.

Curriculum and Educational Program

The proposed curriculum for a charter school must, *inter alia*, show how the applicant will offer comprehensive planned instruction to fulfill Chapter 4 requirements, how the particular

subject areas will meet Pennsylvania standards, and how the applicant will deliver special education services to students with disabilities. *Bear Creek Community Charter School*, CAB No. 2003-3. This is required in order to show how the proposed charter school will offer comprehensive learning experiences to its students as required under Section 1717-A(e)(2)(ii). For the following reasons, the Applicant has not fulfilled this burden.

"The curriculum of a school, any school, is one of the most significant building blocks of the educational program at that institution. To not have the curriculum completed and fully aligned shows a lack of adequate planning." *Thomas Paine Charter School*, CAB No. 2009-04, at 9. Section 4.4(a) of the State Board of Education regulations, 22 Pa. Code § 4.4(a), applies to charter schools. 24 P.S. § 17-1732-A, n.8. That regulation provides as follows: "It is the policy of the Board that the local curriculum be designed by school entities to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity." 22 Pa. Code § 4.4(a). A curriculum is defined by the State Board of Education regulations as: "A series of planned instruction aligned with the academic standards in each subject area that is coordinated and articulated and implemented in a manner designed to result in the achievement at the proficient level by all students." 22 Pa. Code § 4.3. Planned instruction is defined as: "Instruction offered by a school entity based upon a written plan to enable students to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity." *Id*.

A charter school applicant's failure to submit curricular materials that establish the planned instruction required by the State Board of Education regulations for the grade levels to be served by the applicant is a basis for denial of the application. *Allentown Engineering Academy Charter School v. Allentown School District*, CAB No. 2014-01, at 16-18. The charter school's curricular

plan must be fully developed at the time the application is filed. *Environmental Charter School at Frick Park*, CAB No. 2007-05, at 6-7. In addition, the complete curriculum plan must be submitted to determine if the proposed charter school could be a model for other public schools. *Duquesne Charter School*, CAB No. 2013-01, at 9 (*citing In Re: Environmental Charter School*, CAB No. 1999-14, at 21). An applicant would not be a model for other public schools if the curriculum submitted was not fully developed. *Duquesne Charter School*, CAB No. 2013-01, at 12.

To meet the definition of "curriculum" in the State Board of Education regulations, the curricular documents submitted must include the indicators of planned instruction set forth in the regulations, including resources and assessments that will be utilized in each subject area. *Spartansburg Community Charter School v. Corry Area School District*, CAB Docket No. 2016-02, at 33. The documents must establish a program that is fully aligned with Pennsylvania standards; if PA Core Standards for the appropriate grade levels are missing, or if the curricular documents cite to standards in use in other States or academic standards that do not exist in Pennsylvania, the curricular documents are not fully aligned. *Id*., at 35-37. The curricular documents submitted must also give an idea of "how the teacher of the course is to lead the students through the course or gauge whether students understand the concepts and have attained the competencies at the heart of the course." *Id*., at 33. The resources and materials to be used in each course must be age-appropriate for the grades to be served by the charter school. *Id*., at 33-35. Failure to use age-appropriate material creates barriers to learning. *Id*., at 35.

The curricular materials submitted by an applicant must also address the nontraditional elements of the Charter School and how those elements will be integrated into the curriculum; failure to do so will render the curriculum insufficient. *In re Appeal of Community Service Leadership Development Charter School*, CAB No. 2010-02, at 11 (*citing In re David P.*

Richardson Academy Charter School, CAB No. 2001-08). For example, where an applicant touted the use of hands-on learning outside the classroom, CAB expected to see lesson plans or instructional timelines to indicate where and how those themes and hands-on learning would be integrated into the charter school's education programming, and found fault with the applicant where the two lesson plans provided did not reflect any such hands-on learning outside the classroom. *Spartansburg Community Charter School, supra*, at 39. Further, if an applicant represents that a theme will be integrated into the curriculum, evidence of such integration in the overall curriculum must be apparent from the curriculum maps or documents submitted. *Id*., at 39-40.

Here, the Applicant has not taken sufficient steps to provide evidence of planned instruction that meets and is aligned with the Pennsylvania standards in every course to be offered in the first year of the charter, as detailed in the Factual Findings above. The documents submitted do not evidence standards-aligned, planned instruction in all core subject areas and electives to be offered at the Charter School. Required content under Chapter 4, such as two World Languages (one of which must be offered in a minimum 4-year sequence) and family and consumer science programming, is not evident. *See* 22 Pa. Code §§ 4.23(c)(9), 4.25.

The Applicant has not provided any timeline or other information as to when complete curriculum would be completed before the Charter School opens or by whom, given that there are no employees or contractors proposed to be hired to create the curriculum. Teachers are not proposed to begin working until mid-August, with the first day of classes for students beginning on September 6, 2022.

Because portions of the Application have been copied from ASPIRA Tech, the Board cannot ascertain what this Applicant is actually proposing to offer in terms of a unique educational

programming and mission. The mish-mosh of inconsistent representations in the narrative and the simple list of courses in Appendix 1 does not provide for a coherent description of what the Charter School would offer to students reflective of its mission. Very little information is provided to describe what the comprehensive high school experience would look like for students of varying ability levels enrolled in the Charter School and taking the different pathways; how the proposed programming would fit into graduation requirements; how a student's experience in the Charter School might include CTE, wellness, fine arts exposure, technology, business and entrepreneurship opportunities, internships or other college opportunities; and what partners would be utilized to implement such programming and opportunities.

Another unique aspect of the Charter School's model is supposedly project-based learning. Such an instructional model is not evident within the documents available. No curriculum for any entrepreneurship, business or technology courses have been submitted.

As a high school, credit attainment and credit recovery towards meeting graduation requirements are extremely important. The Applicant has failed to address these important considerations in its planning.

Very little information and explanation is provided for how special education students with a continuum of needs would be served in the Charter School or how students with academic and behavioral needs short of being identified as special education students will be provided with a system of interventions designed to address those needs, as set forth in Chapter 711 of the State Board of Education regulations. Insufficient details about the Applicant's comprehensive plans in these areas are provided.

Based upon these deficiencies, the Board concludes that the Applicant has not established that it is prepared, in terms of curriculum and planning, to offer a comprehensive learning

environment to students at the proposed charter school or 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. On July 1, 2017, PDE 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.

Here, the Application does not include plans to serve English Learners that are consistent with Pennsylvania law or that meets the requirements of the BEC, as detailed in the Factual Findings. These concerns are additional deficiencies in the Charter School's planning.

Financial Planning and Staffing

An item that must be addressed in the application and which is relevant to the determination whether the proposed school has the capacity to provide comprehensive learning experiences pursuant to Section 1717-A(e)(2)(ii) is the school's financial planning. *Bear Creek Community*

Charter School, CAB No. 2003-3. A charter school is required to submit a budget that provides a sufficient basis from which to conclude that the charter school has considered fundamental budgeting issues and has determined that it will have the necessary funds to operate. *Thomas Paine Charter School*, CAB No. 2009-04, at 12; *Voyager Charter School*, CAB No. 2005-09. The budget must be complete, and much 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 No. 2003-3.

Several material concerns exist with the Applicant's financial and staffing plan. Many, many positions identified throughout the Application are not included in the staffing plan and budget, which would adversely affect the year 1 budget by several hundred thousand dollars. Other positions that are necessary to fulfill the functions of the Charter School, such as the Special Education Coordinator, ELL Coordinator, Director of Operations, and Director of Student Supports, are not hired until after the first year of operations, raising questions about who would take on those roles in year 1 and year 2. Under the budget allotment, insufficient numbers of teachers are proposed for the high school model and the proposed teacher to student ratio.

Other material errors or omissions related to financial planning and staffing include, but are not limited to: (1) underestimated costs for health care coverage; (2) underbudgeted renovation costs by $80,000 in year 1; (3) omitted or underbudgeted expenditures associated with the student transportation for special education needs or internships required under the curriculum, potential PSERS costs, internships and contracted physician services; (4) failure to employ or contract with

someone to perform PIMS child accounting; and (5) financial policies and guidelines written for some other entity(ies) that are not reflective of the Charter School's structure or proposal.

One important cost driver of the Applicant's proposed financial plan is the provision of health care benefits to its employees. The CSL states as follows: "Every employe of a charter school shall be provided the same health care benefits as the employe would be provided if he or she were an employe of the local district." 24 P.S. § 17-1724-A(d). In order to determine if the financial plan is viable and consistent with the requirements of the CSL for purposes of the Applicant's planning, the Applicant must describe its health insurance coverage plans, and the School District must determine if those plans are consistent with the CSL's "same health care benefits" provision. According to CAB, such a determination turns on the meaning of "health care benefits," meaning what type of items or services are covered by the plan. *Gillingham Charter School v. Pottsville Area School District*, CAB Docket No. 2016-11, at 68. The CSO evaluated the Applicant's health care benefits and determined they are not the same as the School District's benefits, which is a significant deficiency in the Applicant's financial and operational planning.

The other budget and planning 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. The Applicant's budget does not reflect expenditures for a school physician to meet those requirements.

For all of these reasons, the Board finds the budgetary and staffing planning by the Applicant to be deficient.

C. The Application Does Not Consider Or Properly Address 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 Board believes that the Applicant has failed to include or properly address several items of information as required in this section of the CSL.

1. Section 1719-A(4) – The Proposed Governance Structure Of The Charter School, Including A Description And Method For The Appointment Or Election Of Members Of The Board Of Trustees.

Aspects of the proposed governance structure of the Charter School raise concerns, as discussed in more detail above.

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

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

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

Inconsistent representations exist about the Applicant's expectations for the admission of students and the criteria for evaluation of the admission of students, including whether a zip code preference and founder's preference would be permitted. Those inconsistencies are outlined in the Factual Findings above. The lack of information about the lottery and wait list is also a deficiency.

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 Board does not know what procedures will be used by the Applicant because the information submitted in the Application is FTCHS's Code, not the Applicant's. To the extent the Code would be reflective of the Charter School's operations and procedures, the information submitted reflects procedures and practices that would violate Chapter 12, and does not reflect the restorative justice model described in the narrative, as delineated in the Factual Findings above.

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

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

6. 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.

Although the address and ownership information are provided, $80,000 in necessary renovation costs to be expended by the Charter School under the letter of intent to lease are not included in the budget.

7. 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 to address how the Charter School will provide initial and ongoing training to teachers and other staff. No detail was provided about the knowledge and skills that would be addressed at varying points during the school year in order to implement the programs proposed by the Charter School. 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. While the narrative sporadically identified some topics to be covered through PD, the Applicant never disclosed specifically when such opportunities would occur; any specific details about the programming that would be provided; how or when mandated trainings would occur for staff; or who would provide the programming. Also, no teacher induction plan was provided. These are deficiencies in the Application. *See e.g. New Castle Arts Academy Charter School v. New Castle Area School District*, CAB No. 2014-14 (finding sufficient a professional development plan that contained topics, projects/outcomes, responsible parties and standards tied to the National Staff Development Council's standards for staff development).

8. Section 1719-A(15) And (16) – Criminal History Records And Official Clearance Statements For All Individuals Who Will Have Direct Contact With Students.

The Hiring and Personnel Policy submitted by the Applicant reflects a lack of understanding about all of the clearances and other required background check information that must be collected from staff and contractors that work with students in accordance with applicable legal requirements. In addition, no clearances have been provided for the identified CEO, Mr. James. These are all deficiencies 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). "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 myriad of deficiencies in the Application identified above, the Board concludes that the proposed Charter School does not have the capacity to serve as a model for other public schools in Pennsylvania. Further, the Applicant's actions in trying to masquerade ideas and content from other applications that have been denied by the Board in prior school years and another charter school's operating documents as the Applicant's own plans and creations reflect the exact opposite of what the General Assembly intended when it enacted the Charter School Law.

ORDER

For the reasons set forth above, the Application to create the Philadelphia Entrepreneurial Development Academy Charter High 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
President