

SB #5-97

IN THE MATTER OF THE DENIAL OF :
THE CHARTER SCHOOL APPLICATION : STATE BOARD OF EDUCATION
OF THE GLOUCESTER COUNTY : DECISION
CHARTER HIGH SCHOOL, GLOUCESTER :
COUNTY. :

Decided by the Commissioner of Education, January 14, 1997

For the Appellant, Albertson, Ward & McCaffrey (Eugene McCaffrey, Esq., Jr.,
of Counsel)

The Gloucester County Charter High School (hereinafter "appellant") filed an appeal to the State Board from a letter decision of the Commissioner of Education dated January 14, 1997 denying its application to establish a charter school in the 1997-98 academic year. In a statement of reasons dated February 14, 1997, the Commissioner indicated that the application contained inadequate or insufficient information in most program areas and had a weak financial plan, specifically, that no budget detail was provided, cash flow not calculated within Department of Education guidelines, and grants and donations made up 47% of the budget.

Appellant filed a brief in support of its appeal, along with a motion to supplement the record, pursuant to N.J.A.C. 6:2-1.9, with its mathematics and language arts curriculum and a proposed school calendar. A Deputy Attorney General representing

the Commissioner filed an application to participate, along with a brief in response to the arguments supporting the appeal and in opposition to the motion to supplement.

In view of the extremely stringent time limit under which the Legislature has required us to decide appeals of this type, N.J.S.A. 18A:36A-4(d), we have determined to consider all of the documents that have been filed in this matter. In addition, we have reviewed the record provided to us on behalf of the Commissioner. After careful consideration of this matter under the terms of the pertinent statutes, we agree with the ultimate determination of the Commissioner to deny the charter in this case, but we modify his analysis.

In enacting the Charter School Program Act of 1995 (“Act”), N.J.S.A. 18A:36A-1 et seq., the Legislature found that charter schools could assist educational improvement by providing a variety of educational approaches which might not be available in the traditional public school classroom. In order to encourage the establishment of such schools, the Act directs the Commissioner to establish a program for the approval and granting of charters pursuant to the Act. N.J.S.A. 18A:36A-3. It also delineates the procedure for establishing a charter school and establishes criteria for eligibility. N.J.S.A. 18A:36A-4.

In addition, the Act mandates the specific information which must be included in an application for a charter school. That information, which is expressly enumerated in N.J.S.A. 18A:36A-5, includes: 1) identification of the charter applicant, 2) the name of the proposed charter school, 3) the proposed governance structure of the school, including a list of the proposed members of the board of trustees or a description of their qualifications and method of appointment or election, 4) the school’s educational

goals, the curriculum to be offered and the methods of assessing whether students are meeting educational goals, 5) the admission policy and criteria for evaluating the admission of students, 6) the age or grade range of students to be enrolled, 7) the school calendar and school day schedule, 8) a description of the charter school staff responsibilities and proposed qualifications, 9) a description of procedures to ensure parental involvement, 10) a description of and address for the physical facility in which the school will be located, 11) information on how community groups will be involved in the planning process, 12) the financial plan for the school and provisions for auditing, 13) a description of and justification for any waivers of regulations which the school will request, and 14) such other information as the Commissioner may require.

The application, as defined in N.J.S.A. 18A:36A-5, must be submitted to the Commissioner and the local board for review in the school year preceding that in which the charter school will be established. N.J.S.A. 18A:36A-4(c). The Commissioner has the final authority to grant or reject a charter application, id., but a district board or a charter school applicant may appeal his decision to the State Board. N.J.S.A. 18A:36A-4(d). In the absence of regulations, we find it necessary to consider the application under the terms of the pertinent statute.

The record reveals that the “Final Application” submitted by appellant on October 15, 1996 was assessed by two reviewers. Those reviewers identified the application as inadequate and/or failing to provide sufficient information in the following areas: goals and objectives, educational mission, governance structure, educational program, student assessment, student discipline, admission policy, meeting the needs

of at-risk students, staff, parental involvement, transportation and insurance. The application was found to be “educationally weak.”

A separate budget review found the overall quality of appellant’s financial plan to be inadequate, finding the budget and anticipated revenues to be “bare bones” and indicating that the application lacked details and documentation.

A tally sheet dated November 8, 1996 summarized the “Final Application” as inadequate in its educational mission, goals and objectives, governance structure, educational program, student assessment, admission policy, discipline policy, at-risk students and parental involvement. The application was given an overall rating of inadequate, noting that all of the educational program elements, as well as the financial plan, were inadequate. A recommendation was made to reject the application.

Even taking into consideration the materials submitted by appellant as part of its motion to supplement the record, our own review of the record indicates that the application fails to satisfy the minimal statutory standards. While the application provides a description of and address for appellant’s physical facility as required by N.J.S.A. 18A:36A-5, the application includes such programmatic and financial deficiencies as to preclude the grant of a charter to appellant at this time.

Consequently, we conclude that appellant has failed to demonstrate its entitlement to establish a charter school in 1997-98. We stress that our determination herein is limited to the 1997-98 school year and is without prejudice to appellant’s ability to apply for a charter in any subsequent years.

March 26, 1997

Date of mailing _____