

SB #17-98

IN THE MATTER OF THE GRANT OF :
THE CHARTER SCHOOL APPLICATION : STATE BOARD OF EDUCATION
OF THE FRANKLIN CHARTER SCHOOL, : DECISION
SOMERSET COUNTY. :

Decided by the Commissioner of Education, January 21, 1998

For the Appellant, Carroll & Weiss (Russell Weiss, Jr., Esq., of Counsel)

For the Respondent, McCarter & English (David C. Apy, Esq., of Counsel)

For the Participant Commissioner of Education, Geraldine Callahan, Deputy
Attorney General (Peter Verniero, Attorney General of New Jersey)

This is one of fourteen appeals from contingent approvals given by the Commissioner of Education to applications submitted to obtain charters to operate charter schools pursuant to the Charter School Program Act of 1995, N.J.S.A. 18A:36A-1 et seq. We have presumed the validity of the statute and implementing regulations for purposes of determining whether a specific applicant should be permitted to proceed in this process. Hence, for purposes of this review, we have focused on whether the appeal raises concerns of such character as to preclude the grant of a charter or has revealed circumstances which must be addressed before the proposed school can become operational.

In support of its appeal, the Franklin Township Board of Education (hereinafter "Board") contends that the Commissioner's decision must be reversed because the

failure of the application to include information regarding a facility is in direct violation of the Charter School Act and precludes approval as a matter of law. The Board further contends that approval is precluded because the Department of Education's review process revealed significant deficiencies which have not been corrected. The Board also argues that the Commissioner lacks the authority to grant a conditional charter and that the fiscal impact of the Charter School Act on public school districts violates the constitutional requirement for the provision of a thorough and efficient education. Additionally, the Board asserts that the Charter School Act is an unconstitutional delegation of legislative authority to a private body and denies equal protection to the students who remain in the public school and to their parents.

We find that the Board has not shown that the substance of the application is such that we should set aside the Commissioner's determination that the proposed charter school may continue the process which would allow it to become operative if the Commissioner grants it final approval.

Margaret M. Bennett abstained.

April 1, 1998

Date of mailing _____