

POTOMAC CHARTER SCHOOL,

Appellant

v.

PRINCE GEORGE'S COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-32

### OPINION

This is an appeal by Potomac Charter School, Inc. ("PCSI"),<sup>1</sup> contesting the decision by the Director of the New Schools Office for Prince George's County Public Schools to return PCSI's application to establish a public charter school in Prince George's County because the school system had not completed development of the application process and was not yet accepting charter school proposals. The local board has submitted a Motion to Dismiss the appeal maintaining that the local board has not issued a final decision on the application. PCSI has submitted an opposition to the motion.

### FACTUAL BACKGROUND

On February 18, 2004, PCSI submitted a letter of intent to file an application for a public charter school, and on April 15, 2004, submitted an application to establish a public charter school in Prince George's County. PCSI developed its application based on the application elements set forth in the minutes of the local board's October 23, 2003 board meeting; information provided in the Maryland Public Charter Schools Model Policy and Resource Guide; and input from Greater Educational Opportunities Foundation ("GEO").<sup>2</sup>

By letter dated April 26, 2004, Patrick J. Logan, Director of the New Schools Office, advised PCSI that its charter school application was being returned because the school system had not yet completed development of the application process and was therefore not accepting proposals. Mr. Logan indicated that the application form would be released in the near future and that he would contact Appellant once application forms were available. Logan's letter did

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<sup>1</sup>The appeal was filed by Deborah Driver, President of PCSI, on behalf of PCSI.

<sup>2</sup>GEO is a foundation which has been active throughout the country in charter school development since 1998. GEO sponsors its own schools and runs the Charter School Services Center which provides assistance to parents and entities interested in starting charter schools in their own localities. PCSI has been working with GEO since February 3, 2004 in order to develop a charter school in Prince George's County. PCSI indicates in its letter of appeal that GEO has prepared charter school applications for submission in various jurisdictions and GEO has knowledge of those areas that are relevant for inclusion in an application for a charter school.

not include any explanation of areas of deficiency in the application nor did it indicate that the local board would review and issue a decision on the application within the 120 day statutory deadline.<sup>3</sup> See 4/26/04 letter from Logan. Maintaining that this action is an effective denial of its charter school application, PCSI filed an appeal to the State Board.

## ANALYSIS

In 2003, the Maryland General Assembly enacted legislation establishing the Maryland Public Charter School Program as “an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.” Md. Code Ann., Educ. § 9-101(b). Under § 9-103(a), the local board of education is the “primary public chartering authority” for the granting of the charter. Section 9-104(a) requires that an application to establish a public charter school be submitted to the local board and that the local board review the application and render a decision within 120 days of receipt of the application.<sup>4</sup>

Further, § 9-103(b) establishes the State Board as the secondary chartering authority for the granting of the charter, acting in its appeal review capacity or as the public chartering authority for a restructured school. Section 9-104(b) provides as follows:

- (1) If the county board denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4-205(c) of this article.
- (2) The State Board shall render a decision within 120 days of the filing of an appeal under this subsection.
- (3) If the county board denies an application to establish a public charter school and the State Board reverses the decision, the State Board may direct the county board to grant a charter and shall mediate with the county board and the applicant to implement the charter.

The legislation also requires each local board to develop a public charter school policy and submit it to the State Board. Md. Code Ann., Educ. § 9-110. All local boards were required to submit their policies to the State Board by November 1, 2003. Each policy is required to include guidelines and procedures regarding the following: (i) evaluation of public charter

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<sup>3</sup>In its Motion to Dismiss the local board argues that the appeal is premature because the 120 day deadline expires on August 16, 2004.

<sup>4</sup>For restructured schools, the local board must review the application and render a decision within 30 days of receipt of the application.

schools; (ii) revocation of a charter; (iii) reporting requirements; and (iv) financial, programmatic, or compliance audits of public charter schools. Educ. §9-110(a)(2).

The local board submitted its charter school policy #3506 to the State Board by November 1, 2003, as required by law. Attached to the policy was a set of administrative procedures marked as “draft”. The local board maintains that it did not consider the substance of PCSI’s application when it was submitted to the board in April 2004, because the school system was still in the process of developing an application form and adopting a procedure to review and evaluate charter school applications.

At oral argument on July 21, 2004, counsel for the local board indicated that the board had recently finalized its charter school application form and the review and evaluation procedures; that the board would send out notice to the public on August 2, 2004, that the application form and procedures were available; and that the deadline for submission of charter school applications to the local board would be September 10, 2004.

As noted above, §9-104(a) mandates that a local board review a charter school application and render a decision on the application within 120 days of its receipt. This law went into effect on July 1, 2003. All local boards were to have developed and submitted to the State Board charter school policies that addressed the factors listed above by November 1, 2003. We believe the intent of the legislation was for local boards to then proceed with all deliberate speed in receiving and reviewing charter school applications. In the case at hand we find that delaying the process for an additional ten months for consideration of applications is not in compliance with the intent of the Maryland charter school law.

### CONCLUSION

For these reasons, we deny the Motion to Dismiss filed by the Prince George’s County Board of Education. Further, since the Board has now developed its application form, the Appellant may revise its application if necessary to conform to the application format of the Prince George’s County Board and resubmit its application to the board on or before September 10, 2004. Given the Board’s noncompliance with legislative intent as described above, if the Appellant resubmits an application, we direct the Prince George’s Board to review and issue its decision on the application within 60 days of its receipt.

Edward L. Root  
President

Dunbar Brooks  
Vice President

Lelia T. Allen

J. Henry Butta

Beverly A. Cooper

Calvin D. Disney

Clarence A. Hawkins

Maria C. Torres-Queral

David F. Tufaro

CONCURRENCE AND DISSENT

I concur that the Appellant may revise its application if necessary to conform to the application format of the Prince George's County Board and resubmit it on or before September 10, 2004. However, I do not agree with the time as specified by the majority opinion of the State Board for review of the application by the Prince George's County Board.

Karabelle Pizzigati

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CONCURRENCE AND DISSENT

I concur that the Appellant may revise its application if necessary to conform to the application format of the Prince George's County Board and resubmit it on or before September 10, 2004. However, I do not agree with the time as specified by the majority opinion of the State Board for review of the application by the Prince George's County Board. I believe the Prince George's County Board should review and issue its decision on the application within 120 days of its receipt.

JoAnn T. Bell

August 4, 2004