

**THE SCHOOL DISTRICT OF PHILADELPHIA
BOARD OF EDUCATION**

**IN RE: PAN AMERICAN ACADEMY CHARTER SCHOOL – PATHWAYS HIGH
SCHOOL
2024 CHARTER SCHOOL APPLICATION**

ADJUDICATION

The Board of Education ("Board") adopts this Adjudication regarding the 2024 Charter School Application (the "Application") submitted to The School District of Philadelphia ("School District") by the Applicant for Pan American Academy Charter School – Pathways High School ("Pathways High" 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 81 operating charter schools serving approximately 64,000 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, 2024, the School District received the Application filed by the Applicant. (PAACS0001-PAACS1325).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 19, 2024, and the second occurring on January 28, 2025. The public hearings were each stenographically recorded. All references to the Notes of Transcript are to the January 28, 2025 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 2025-2026 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 “PAACS”.

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 19, 2024 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. (12/19/24 N.T. 10).
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 (PAACS0001-PAACS1325);
 - B. A PowerPoint submitted by the Applicant at the first hearing, marked as Exhibit 2 (PAACS1326-PAACS1338);
 - C. A list of public commenters from the December 19, 2024 hearing, marked as Exhibit 3 (PAACS1339);
 - D. Advertisement of Public Notice for December 19, 2024 hearing, marked as Exhibit 4 (PAACS1340);
 - E. The CSO’s written Evaluation Report, marked as Exhibit 5 (PAACS1341-PAACS1386);
 - F. The Advertisement of Public Notice for January 28, 2025 hearing, marked as Exhibit 6 (PAACS1387);
 - G. Written public comments received by the January 24, 2025 public comment deadline established by the School District (PAACS1388-PAACS1429);
 - H. Transcripts from the hearings held on December 19, 2024 and January 28, 2025 (PAACS1430-PAACS1716);

I. The concluding document submitted by Applicant on February 7, 2025 (PAACS1717-PAACS1750); and

J. The School District's Application Form found at https://drive.google.com/file/d/1rPbZ6ZXhRyBvq_kY4uW_48RMhdz_Fbow/view

General Information

10. Pathways High plans to open in the 2026-2027 school year (Year 1) and intends to serve a total of 200 students in Grade 9, scaling to 800 students in Grades 9-12 in the 2029-2030 school year (Year 4). (Fact Sheet, p.1.) (PAACS0001).

11. Pathways High would be located at 118-60 Indiana Avenue, Philadelphia, PA 19134 — and will give enrollment preferences to the following individuals in the following order: (1) students who reside in the 19133 and 19134 area codes, (2) siblings of students enrolled at the Charter School from the prior school year, and (3) children of founding Board members of Pan American Academy Charter School (“Pan American Academy”) (Attachment 25, Admissions) (PAACS0559-PAACS0560).

12. Pathways High mission is to “prepare bilingual, internationally minded inquirers who learn and contribute to the community through service and action.” (Fact Sheet, p. 1) (PAACS0001).

Sustainable Support

13. The Applicant submitted Letters of Intent and letters of community support in an effort to demonstrate sustainable support for Pathways High and the record also contains written and public testimony asserting support. Nevertheless, despite the community support expressed in the letters and the testimony, the number of submitted Letters of Intent do not reflect the same level of support for Pathways High. (Attachment 31, Community Support) (PAACS0686-PAACS0727) (Attachment 32, Intent to Enroll Forms) (PAACS0728-PAACS0940) (N.T. 70:18-75:11) (PAACS1388-PAACS1429).

- A. Of the submitted Letters of Intent, only 38 students would be eligible for grade 9 served in Year 1, equating to 19 percent of the proposed Year 1 enrollment. (CSO Report, p. 3) (PAACS1343) (Attachment 32, Intent to Enroll Forms) (PAACS0728-PAACS0940).
 - B. Further, majority of the letters of community support appeared to be from entities that stand to benefit financially if a charter is granted to Pathways High. (Attachment 31, Community Support) (PAACS0686-PAACS0727).
14. Although Pathways High has a feeder school, Pan American Academy, many of Pan American Academy's 8th grade students did not submit intent to enroll forms.

Governance

15. Only nine of the fifteen possible Board members are identified. (Narrative, p. 32) (PAACS0038).
16. None of the proposed Board members for Pathways High have experience governing a charter high school (Attachment 7, Board Resumes) (PAACS0184-PAACS0237); (N.T. 101:9-19).
17. Two of the proposed Board members, Dr. Joe Ducette and Hector Guzman, do not live in Pennsylvania. (N.T. 42:19-43:10).
18. The proposed CEO of Pathways High is also the CEO of Pan American Academy. The CSL does not permit a CEO to be compensated by both charter schools, unless separate sworn statements outlining the arrangement for compensation by both charter schools are approved by the charter school boards. No sworn statement was submitted with the Application. (CSO Report, p. 44) (PAACS1384); 24 P.S. § 17-1715-A(a)(12)(c)(1).
19. Pathways High is not independent; it is simply an expansion of Pan American Academy.

- A. The CSL defines “Charter School” as "an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.” 24 P.S. § 17-1703-A.
- B. All board members of Pathways High would become board members of Pan American Academy, and if the charter is granted, the intent is for both Pan American Academy and Pathways High to have a shared board. (N.T.45:17-23).
- C. Pathways High is not incorporated and instead the Applicant submitted Articles of Incorporation for Pan American Academy. (N.T. 92:2-5) (Attachment 6, Articles of Incorporation) (PAACS0180-83).
 - i. Further, the Applicant stated that Pathways High and Pan American Academy will be one corporate entity and that its intent is to have “one continuous school from K-12 under one charter” (N.T. 91:18-92:5; N.T.92:19-22).
- D. The bylaws and conflict of interest policy submitted with the Application are for Pan American Academy, and the Applicant states that it would “adopt the governance approach as currently in practice at [Pan American Academy].” (Attachment 9, Bylaws) (PAACS0243-PAACS0255) (Attachment 10, Conflict of Interest Policy) (PAACS0256-PAACS0261).
- E. The intent to enroll forms were solicited by Pan American Academy. (N.T. 103:8-11).
- F. If Pan American Academy dissolves, Pathways High would also dissolve. (N.T. 92:14-93:14).
- G. All employees, staff, and administration will be employees of Pan American Academy. (N.T. 107:24-108:14).

H. As reiterated below, the lease for the proposed facility has Pan American Academy as the tenant. (Attachment 41, Intent to Lease) (PAACS1119-PAACS1123).

Facility

23. There is no lease submitted for Pathways High as the tenant of a facility.

A. There is a lease submitted for the proposed facility for Pathways High, but the identified tenant is Pan American Academy. (Attachment 41, Intent to Lease) (PAACS1119-PAACS1123).

i. There is no agreement between Pathways High and Pan American Academy regarding Pathways High's right to use the facility.

24. The lease proposal has a 15-year term, and the proposed facility is a shell requiring a complete renovation, but the lease is not contingent upon the renovations being completed on time or Pathways High receiving the necessary approvals to renovate the property as required by law in order to utilize the property for educational purposes. (Attachment 41, Intent to Lease) (PAACS1119-PAACS1123).

25. The lease proposal requires a \$100,000 deposit within sixty (60) days of Charter approval, and it is unclear how the Charter School will make this payment. Further, it is unclear whether this deposit is refundable if the renovations are not completed on schedule or if Pathways High cannot get the required approvals to complete the renovations. (Attachment 41, Intent to Lease) (PAACS1119-PAACS1123).

26. If the renovations are not complete by August 2026, the Applicant intends to rent nearby lots and place modular classrooms on such lots. (N.T. 121:21-122:9).

A. It is not clear whether the modular classroom back-up plan is feasible because no documentation was submitted regarding the location of the aforementioned lots, the

availability of the lots, the rental price of the lots, or the confirmation of legal determination as to whether local zoning permits modular units on the lots.

- B. If the renovations are not completed on time for the opening of the Charter School, the Charter School would need approximately 50-60 modulars to accommodate its enrollment projections; it is unclear whether the budget can accommodate such costs. (N.T.124:1-19).

Financial Operations and Budget

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

- A. The fees listed in the Narrative and the Technology Management agreement all list contradicting costs associated with the IT services in the Budget. (Attachment 13, Technology Management) (PAACS0262-PAACS0265) (Attachment 34, Budget) (PAACS0960) (Narrative, p. 35) (PAACS0041).
- B. The Nursing Services Agreement lists Y1 costs of \$109,769.50, but the budget lists the Y1 costs at \$150,000. (Attachment 34, Budget) (PAACS0960). (Attachment 16, Health Management) (PAACS0336).

28. Given recent Executive Orders concerning federal funding, there is no certainty regarding the amount of federal funding the Charter School will receive, and there is no plan regarding how the Charter School would operate without such funding.

- A. Further, the budget is based on ninety-eight percent (98%) enrollment, so if federal funding were decreased or non-existent, there would be no ability to increase revenue through more enrollment. (N.T. 85:3-7).

- a. There is no specific plan regarding what items the Charter School intends to remove from the budget if enrollment projections are not met and thus the proposed revenue is not received. (N.T. 85:16-87:7).

29. The Budget assumes \$784,482.87 will be donated to Pathways High by Pan American Academy, but there is no written arms-length agreement or repayment terms regarding the funds; this proposed transaction between Pan American Academy and Pathways High would likely be a violation of CSL. (Attachment 34, Budget) (PAACS0958) (CSO Report, p. 38) (PAACS1378).

30. The Applicant testified that Pathways High would partner with Board on Track to provide professional development services; however, no agreement was submitted for this partnership, and it is unclear if the associated costs are reflected in the budget. (N.T.49:10-50:1).

Staffing

31. The Charter School budgeted for four (4) special education teachers at scale, and they are anticipating approximately 40 special education students for each grade. With only one special education teacher serving each grade, it is highly likely that the diverse needs of special education students will not be adequately met. (CSO Report, p. 15) (PAACS1355) (Narrative, pgs. 12, 64) (PAACS0018, PAACS0070).

32. The Charter School has a bilingual mission, but it is unclear whether the applicant will hire enough bilingual staff to deliver the proposed educational programming at scale. (Fact Sheet, p. 1) (PAACS0001) (CSO Report, p. 2) (PAACS1342).

33. The Application does not adequately demonstrate the Charter School's capacity to serve English Learners ("ELs") effectively.

- A. Only a part-time EL teacher is listed in the staffing plan for Year 1 although the Applicant assumes there will be approximately 40-50 EL student in Year 1; it is unlikely this is

sufficient staffing to meet the needs of the EL population. (Narrative, p. 12, 58) (PAACS0018, PAACS0064).

- B. The Applicant mentions only one EL-specific professional development opportunity, which is limited to the new teacher orientation. If the Applicant plans on including further training opportunities related to the needs of students who are ELs, it is unclear when these trainings would occur. (CSO Report, p. 16) (PAACS1356).
- C. The Applicant states that the Charter School's English Language Specialists will have either a K-12 ESL instruction certification or a TESOL certification; however, for an English Language Specialist to be properly certified they must possess a PA Instructional I or II certification and the ESL Program Specialist Certificate. (Narrative, p. 23) (PAACS0029) (CSO Report, p. 15) (PAACS1355).

Curriculum

34. The Applicant failed to demonstrate that Pathways High would teach required PA Core and Academic Standards, according to the proposed curriculum. (CSO Report, p. 2) (PAACS1342).

35. The CSO reviewed the curriculum submitted by the Applicant to determine if the materials 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. 6-10) (PAACS1346-PAACS1350) 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:

Mathematics: The Applicant's submission is partially aligned to the Algebra I, Algebra II and High School Mathematics PA Core Standards. The Applicant identifies that "Illustrative Math" would be the curriculum resource and materials used for the proposed Charter School's Algebra I and Algebra II courses (pp. 10, 12, Attachment 1). The submitted Algebra I materials failed to include evidence of the following standard: CC.2.4.HS.B.7. The

submitted Algebra II materials are fully aligned to the PA Core Standards. However, the Applicant did not identify any of the Eligible Content standards for either Algebra I or Algebra II. Furthermore, many of the High School Mathematics Core standards are planned to be covered by the Applicant between Algebra I and Algebra II. However, the following standards related to Algebraic Concepts are not slated to be covered by either Algebra I or Algebra II: CC.2.2.HS.C.7; CC.2.2.HS.C.8; CC.2.2.HS.C.9. It is unclear why the Applicant chooses to exclude these algebra-related standards from the submitted curricular materials. The remaining High School Mathematics Core standards that were missing from the submitted materials are related to geometry, so it is likely that the Applicant intends to cover these standards in its geometry course in subsequent years of operation. Again, the Applicant did not submit any materials beyond a list of the PA Common Core Standards and overarching student objectives, so it is impossible to evaluate the Applicant's level of planning without other fundamental curricular documents or explanations (e.g. how lessons would be tailored to diverse learners).

Social Studies: The Applicant's submission is partially aligned to the Grade 9 Social Studies PA Core Standards. The Applicant identifies that "American Government Interactive HighSchool Government Curriculum" by Savvas Magruder would be the curriculum resource and materials used for the proposed Charter School's Grade 9 Social Studies course (pp. 15-16, Attachment 1). The submitted Social Studies curriculum materials failed to include evidence of the following Grade 9 Social Studies Core standards: 6.1.9.A; 6.1.9.B; 6.1.9.C; 6.1.9.D; 6.2.9.A; 6.2.9.B; 6.2.9.C; 6.2.9.D; 6.2.9.E; 6.2.9.F; 6.2.9.G; 6.3.9.A; 6.3.9.B; 6.3.9.C; 6.3.9.D; 6.4.9.A; 6.4.9.B; 6.4.9.C; 6.4.9.D; 6.5.9.A; 6.5.9.B; 6.5.9.C; 6.5.9.D; 6.5.9.E; 6.5.9.F; 6.5.9.G; 6.5.9.H; 7.1.9.A; 7.1.9.B; 7.2.9.A; 7.2.9.B; 7.3.9.A; 7.4.9.A; 7.4.9.B. Moreover, the Applicant failed to include any of the Reading and Writing in History and Social Studies standards outlined by the PA Common Core. While these standards are banded, meaning they may be covered in either Grade 9 or Grade 10, it is unclear why the Applicant is choosing to omit these standards entirely from its Grade 9 curriculum and leave it entirely for its Grade 10 social studies course. As stated for other content areas, the Applicant solely submits a list of the PA Common Core Standards and overarching student objectives for the social studies course; no unit plans, lesson plans, pacing guides, etc. were included as a part of the Application's submission.

International Baccalaureate (IB): The Applicant identifies that the IB course offered to students in Grade 9 would be a service-learning/MYP Personal Project class. The Applicant identifies the following as the curriculum resource and materials used for the course: "IB Service Learning Guide," "IB Service," "Learning Stages," "IB Teaching Resources for Teachers," and "Year Up Career Labs" (p. 18, Attachment 1). The Applicant further states that this course is "grounded in the IB's mission to develop inquiring, caring young people, motivated to succeed" (p. 10, Narrative). This course covers several of the required Career Education and Work PA Core banded standards; however, the submitted materials failed to demonstrate evidence of the following standards: 13.3.11.B; 13.3.11.C; 13.3.11.D; 13.3.11.E; 13.3.11.F; 13.3.11.G; 13.4.11.A; 13.4.11.B; 13.4.11.C. It is possible that the Applicant plans on covering these remaining Career Education and Work standards in subsequent grades, but no further information was provided in the submitted documentation that indicates any plan to deliver these standards to the students.

Computer Science: The Applicant plans to offer an introduction to computer technology course to students in Grade 9. The Applicant identifies that "Information Technology Career

Cluster Exploration” by Savvas and “Applied Digital Skills” by Google would be the curriculum resources and materials used for the proposed Charter School’s computer science course (p. 21, Attachment 1). This course is one of the classes offered as a part of the career exposure course rotation that all students would complete during Grade 9. This course covers several Computer Science PA Core Standards; however, many are omitted from the submitted materials, specifically the standards that fall under the Algorithms & Programming and Impacts of Computing subcategories. The PA Common Core standards for Computer Science are all banded standards, meaning that the proposed Charter School can cover the standards in either Grade 9 or Grade 10. It is possible that the remaining standards not being covered during Grade 9 would be taught in Grade 10, but no further information was provided related to future plans to incorporate these standards into the proposed Charter School’s curriculum.

Foreign Language: Based on the submitted materials, the only foreign language that the Applicant plans on offering to students is Spanish. Specifically, students in Grade 9 could take either Spanish Language Arts 1 (SLA 1) or Language Acquisition 1 (p. 1, Attachment 1). The Applicant identifies that “StudySync Spanish” by McGraw Hill would be the curriculum resources and materials used for the proposed Charter School’s SLA 1 course, while “Así se dice” by McGraw Hill would be used for the Language Acquisition 1 course. The Applicant notes that students who do not “come to us with a solid foundation in Spanish” would be placed in Language Acquisition 1, while students with prior experience with Spanish would be placed in SLA 1 in Grade 9 (p. 9, Narrative). This track would follow students as they progress towards a possible Spanish diploma: “Diploma Language B (rich and traditional focus) or Diploma Language AB Initio (for those who may have less experience with Spanish)” (p. 9, Narrative). The Applicant does not provide any further information as to how students would be placed in one Spanish class versus another; for example, it is unclear if a native Spanish-speaking student would be assessed at the same level as a student whose sole exposure to Spanish language is through limited coursework prior to enrollment at the proposed Charter School.

The Applicant states that its “mission is to prepare bilingual, internationally minded inquirers who learn and contribute to their community through service and action,” then follows this by stating that the proposed Charter School is committed “to creating globally-minded, biliterate students” (p. 1, Narrative). The inconsistent use of biliterate versus bilingual makes it unclear whether the intended goal for students at the proposed Charter School to graduate with English-Spanish bilingualism, biliteracy, or both. Furthermore, it is unclear why the Applicant has elected to only have students take one course in Spanish per year, and to deliver content in the remaining courses in English. Given that the Applicant identifies the goal of having “25% of graduates [earning] the PA Seal of Biliteracy” by Year 5, the limited amount of instruction being offered in Spanish does not appear sufficient (p. 14, Narrative).

Regarding Students with Disabilities:

The Applicant does not provide a robust plan or overview for how the proposed Charter School would provide programming for students with needs greater than the itinerant level of support. The Applicant notes that there would primarily be accommodations provided to students with itinerant needs in the general education setting, stating, “[The] IB’s curriculum framework is designed for universal application and directly addresses inclusivity, fairness, and accessibility, by supporting a high level of differentiation, and permitting students to

draw upon the full range of ways of knowing and incorporating their experiences into demonstrating proficiency" (p. 22, Narrative). According to the Applicant, professional development would support staff in providing specialized interventions to students within the general education classroom (Attachment 21). Beyond this level of differentiation within the curriculum, the Applicant does not detail intervention programming or supports for students who cannot participate in the general education curriculum with accommodations. For students with supplemental or full-time support needs, it is unclear what programming students would receive or who would provide intervention programming, as the staffing model identifies four special education teachers at scale (p. 12, Narrative). Based on the anticipated number of students with special needs, there is limited opportunity to adjust programming or staffing models to support students based on incoming needs. According to the Applicant, "The school anticipates that approximately 20% of the student population will require special education services," which equates to roughly 40 students with disabilities per grade each year (p. 64, Narrative). With only one special education teacher on staff in Year 1 and four special education teachers by Year 4, the proposed Charter School would not have enough staffing to support both high incidence and low incidence student needs across the proposed Charter School (p. 12, Narrative). The Applicant does not provide a plan for students at various levels of need beyond generalized statements like, "The continuum of educational placements offered by Pathways HS will continue" (p. 21, Narrative). It is unclear how the Applicant intends to support those students without providing information regarding supplemental level programming (such as replacement level ELA and/or math programming).

Regarding English Learners:

The submitted materials in the Application (Narrative and Attachment 4) do not adequately demonstrate the Applicant's capacity to serve English Learners effectively. The Applicant plans to support students who are learning English "within the general education classroom through co-teaching and targeted support and/or as pull-out small group instruction" (p. 23, Narrative). This approach not only conflicts with the PDE-defined structure of an EL Bilingual model but also raises concerns about how non-Spanish-speaking students who are English learners would be supported, given the Applicant's emphasis on Spanish biliteracy for all students.

The Applicant does not directly state how the Pennsylvania English Language Development Standards ("PA ELDS") Framework would be utilized to plan instruction and assessment by all teachers of ELs. In addition, the curriculum does not note how EL students of all levels and language backgrounds would be differentiated in instruction, including Student with Limited or Interrupted Formal Education ("SLIFE").

Regarding students requiring additional academic or behavioral support:

The Applicant outlines a three-tier process for academics, social emotional or behavioral needs, and attendance. This outline includes a clear timeline for screening, progress monitoring, and assessment. However, it is unclear if the Applicant has the capacity to address all of the academic and behavioral needs of students at the proposed Charter School. The Applicant does not provide sufficient information on how the interventions would be used and what the evaluation system for interventions would be. For example, the criteria for entry and exit between tiers are not clearly defined for any tier. Also, there is no evidence

of regular team data reviews to determine student movement between tiers. The Application also lacks specificity regarding research-based interventions or programs that are individualized and leverage technology. According to the Narrative, the only intervention listed across all tiers is small group instruction. However, there is no clarity on who would conduct these small groups, when they would occur, if they would occur within or outside of class, or how they would be implemented effectively (pp. 27-29, Narrative).

The absence of concrete examples of ongoing professional development related to a multi-tier system of supports (“MTSS”) in Attachment 21 raises concerns about how supports for each tier would be addressed in practice. For example, the Applicant does not outline a clear cycle for teacher observation, feedback, and evaluation to ensure the effective implementation of intervention strategies in classrooms. In addition, while restorative circles are mentioned as a social-emotional MTSS strategy, the professional development for this approach appears limited to the leadership team, as noted in Attachment 21.

Regarding Gifted Students:

The Applicant references Universal Design for Learning (“UDL”), project-based learning, and extracurricular activities to “foster success for students demonstrating gifted capabilities” (p. 26, Narrative). However, this does not represent a concrete or comprehensive plan for serving specifically gifted students. Attachment 21 does not mention any professional development plans to support the needs of gifted students.

36. Despite Pathways High’s bilingual focus, the Application does not differentiate the Charter School from School District schools in this regard.

A. Further, Pathways High will only offer one Spanish class each year, and it is unclear this would be adequate to meet the Charter School’s goal of biliteracy for Pathways High’s students. (Attachment 1, Curriculum) (PAACS0082).

37. The proposed curriculum and educational plan is centered on students participating in specialized programs that align with career interests; however, the Applicant does not currently have any partnerships to support its career-related pathways programs. (N.T. 52:17-53:17).

38. Pathways High does not intend to offer two languages in addition to English as required by Pennsylvania law. (N.T. 130:9-12); *22 Pa. Code § 4.25(a)*.

Existing Operator

39. Pan American Academy is an existing operator. It has had mixed outcomes in academic success and organizational compliance in the past years based upon information in the record

from the CSO Report, pages 44-45, and the CSO's Annual Charter Evaluation reports ("ACEs") of Pan American Academy, which are attached hereto and incorporated herein, and based upon publicly available Pennsylvania System of School Assessment ("PSSA") proficiency data from the State for the 2021-2022, 2022-2023, and 2023-2024 school years, all of which have been reviewed by the Board and are found to be credible. Specifically, as stated in the CSO Report:

Regarding academic performance, the currently operating school has patterns of strengths and weaknesses. These data, discussed in more depth below, show moderate but not strong evidence of capacity. PSSA ELA, math, and science proficiency rates for PAACS are listed below. Due to the COVID-19 pandemic, SY 2019-20 and SY 2020-21 scores are not included. • SY 2018-19: ELA 36%, Math 10%, Science 37% • SY 2021-22: ELA 22%, Math 4%, Science 32% • SY 2022-23: ELA 20%, Math 7%, Science 31% • SY 2023-24: ELA 21%, Math 7%, Science 26% In 2021-22, PAACS outperformed its similar schools group in ELA (22% vs. 17%), performed the same as its similar school group in math (4%), and outperformed its similar schools group in science (32% vs. 19%). In 2022-23, PAACS scored 4% lower than its similar schools group in ELA (20% vs. 24%), scored 3% lower than its similar school group in math (7% vs. 10%), and scored 3% lower than its similar school group in science (31% vs. 34%). Comparison results are not yet available for SY 2023-24. PSSA ELA, math, and science growth measures for PAACS are listed below. Due to the COVID-19 pandemic, SY 2019-20 and SY 2020-21 scores are not included. As established by PDE, with growth measures from -1.0 to 1.0, there is evidence that the school met the standard for PA Academic Growth; from -1.01 to -2.0, there is moderate evidence that the school did not meet standard for PA Academic Growth, and significant evidence that the school did not meet PA Academic Growth below -2.0; from 1.01 to 2.0, there is moderate evidence that the school exceeded the standard for PA Academic Growth; above 2.0, there is significant evidence that the school exceeded the standard for PA Academic Growth. • SY 2017-18: ELA 0.22, Math 0.36, Science 4 -4.72, Science 8 2.33 • SY 2018-19: ELA 2.52, Math -1.36, Science 4 -0.94, Science 8 -0.52 • SY 2021-22: ELA -0.17, Math 0.59, Science 4 -1.25, Science 8 1.04 • SY 2022-23: ELA 3.29, Math 1.28, Science 4 -2.47, Science 8 -0.31 • SY 2023-24: ELA 0.30, Math 0.23, Science 4 -3.79, Science 8 0.85 Notably, in SY 2023-24, the most recent review year, PAACS had moderate evidence that the school met the standard for PA Academic Growth in ELA, math, and Grade 8 science. There is significant evidence that PAACS did not meet the standard for PA Academic Growth in Grade 4 science.

II. Evaluation Standards

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.

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

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 review of the Application establishes that the Applicant has not demonstrated, based upon its support

and planning, the capability of providing a comprehensive learning experience 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 public 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).

The outcome of various investigations and the experience of the School District in terms of its oversight of the operations of Philadelphia charter schools require the Board to take a close look at the proposed organizational structure of the new applicants.

Here, the Charter School is not independent and is instead an extension of an existing school, Pan American Academy. The applicant concedes as much in its concluding document. (PAACS1738-1739). Pathways High will have the same board members as Pan American Academy; the same policies governing its operations; it is not incorporated and intends to become a part of Pan American Academy’s corporate entity; and all the employees, staff and administrators providing services for Pathways High will be employed by Pan American Academy.

The proposed Board members for Pathways High lack experience governing a charter school. *See* Findings of Fact Paragraph No. 15. Additionally, the CEO is proposed to be employed by both Pathways High and Pan American Academy; however, no sworn statement was submitted with the Application as required by the CSL. 24 P.S. § 17-1715-A(12)(c)(1).

These issues reflect a lack of proper planning or a lack of understanding of legal requirements governing the Charter School's operations.

The Applicant argues in its concluding document that Discovery Charter School v. School District of Philadelphia, 641 Pa. 136 (2017) permits an expansion of an existing school through the application of a charter for an entirely new school. In Discovery, the Pennsylvania Supreme Court held that the CSL did not allow for the amendment of an application to be adjudicated through the CSL application and appeal process. In response to Discovery Charter School's request for an amendment of its existing charter to increase its enrollment, the Court stated, "Consistent with this opinion, Discovery may file with the SRC an application for a new charter that includes an increased maximum student enrollment to be located in a new facility." Discovery Charter School v. School District of Philadelphia, 641 Pa. 136 (2017). Applicant did not file a wholly new charter application for a K-12 school, which is what it now seeks for Pan American Academy to be. Instead, it applied for what is, for all intents and purposes, an amendment to the current Pan American Academy structure to include 9-12 grade levels even though the Discovery opinion expressly states the CSL does not provide a mechanism for review of amendments.

ii. Financial Operations and 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. The budget must be complete and must 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.

Ongoing concerns exist with the Applicant's financial plan, articulated in more detail above. Here, Pathways High failed to submit a cohesive, balanced budget as a result of inconsistencies across the Application materials, including: 1) assuming Nursing Services costs up to \$150,000 for Year 1 although the Nursing Services Agreement has a cost of \$109,769.50; and 2) listing contradicting fees for the costs associated with IT services in the budget, narrative, and the Technology Management Agreement. These inconsistencies do not allow for confirmation of the budget's viability.

Additionally, the Applicant testified that Pathways High would partner with Board on Track to provide professional development services; however, no agreement was submitted for this partnership, and it is unclear if the associated costs are reflected in the budget. Further, the

Applicant has no plan regarding which items will need to be cut from the budget in the event that the donations or the projected enrollment do not materialize in whole or in part. Last, the Budget assumes \$784,482.87 will be donated to Pathways High by Pan American Academy, but there is no written arms-length agreement or repayment terms regarding the funds; this transaction would likely be a violation of the CSL.

These problems and errors compel the Board to conclude that the Applicant has not properly considered fundamental budgeting issues associated with its model in its planning process. For these reasons, the Board finds that the budgetary planning by the Applicant is deficient.

iii. Facility

The CSL requires a charter school to provide a description of the proposed facility, address of the proposed facility and owner information. 24 P.S. § 17-1719- A(11).

The Applicant did not submit a lease for Pathways High and instead included a lease for Pan American Academy. The lease does not give Pathways High a right to utilize the facility, and there was no agreement submitted between Pathways High and Pan American Academy regarding use of the facility.

The submitted lease requires a \$100,000 deposit within sixty (60) days of charter approval, and it is unclear if Pathways High will be able to pay the deposit at that time. Also, it is unclear if the deposit is refundable in the instance that the renovations are not completed on time for the school opening. Finally, if the renovations are not completed in time for the Charter School's opening, the Applicant proposes to rent nearby lots, place modular classrooms on the lots, and teach from the lots until the renovations are complete; however, it is unclear whether the budget would be able to compensate for the proposed back-up plan.

B. 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, Pathways High failed to demonstrate a reasonable amount of support to sustain ongoing operations. The record contains written and public testimony expressing community support and letters of community support, however such support is not reflected by parents willing to enroll their child into Pathways High. Of the submitted Letters of Intent, only 38 students would be eligible for grade 9 served in Year 1, equating to 19 percent of the proposed Year 1 enrollment. Further, only two parents of Pan American Academy that is not adequate evidence of sustainable support for Pathways High. Further, majority of the letters of support submitted were from entities would likely benefit financially from a charter being granted to Pathways High.

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.

The proposed governance structure of the Charter School raises concerns, as discussed more fully above.

ii. Section 1719-A(9) -- The Financial Plan For The Charter School And The Provisions That Will Be Made For Auditing The School Under Section 437.

As explained more fully above, the financial plan submitted by the Charter School is deficient.

iii. 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.

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.

In the Existing Operator section above, the Board identifies findings from recent evaluations of Pan American Academy. The Applicant proposes that Pan American Academy and Pathways High will share one board. Pursuant to *Philadelphia Collegiate Charter School for Boys v. School District of Philadelphia*, CAB Docket No. 2022-05, [i]t is proper to consider whether the replication of the model has merit by looking to the "established performance [of] the other school run by the individuals forming the Applicant team." *Philadelphia Collegiate Charter School for Boys v. School District of Philadelphia*, CAB Docket No. 2022-05 at p. 13 (Citing, inter alia, *Lehigh Valley Academy Regional Charter School v. Bethlehem Area School District and Saucon Valley School District*, CAB Docket Nos. 2000-12/2000-13, at pp. 11-12). The performance of Pan American Academy in recent evaluations do not support approving

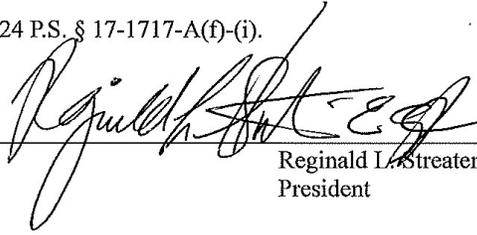
another charter school to be managed by Pan American Academy at this time. *Joan Myers Brown Academy v. School District of Philadelphia*, CAB Docket No. 2022-02, p. 29 (Concluding that a charter school which planned to replicate the curriculum of two charter schools operated by the same educational management organization as the proposed new school and which schools only achieved mixed academic results would not serve as a good model for other public schools). Academic results of a charter school whose board will also govern the proposed Charter School are important and relevant to the Board's review to determine whether another charter should be granted which would be managed by the same board members. Pan American Academy must focus their efforts on the students enrolled in their existing charter school to ensure that academic performance for those students improve. The Board concludes that the proposed Charter School does not have the capacity to serve as a model for other public schools in Pennsylvania.

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ORDER

For the reasons set forth above, the Application to create the – Pan American Academy Charter School – Pathways 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).



Reginald L. Streater, Esq.
President