

BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

**2012 CHARTER SCHOOL APPEAL
Excel Charter Academy**

FINDINGS AND RECOMMENDATION

Pursuant to Tenn. Code Ann. § 49-13-108, sponsors proposing to open new charter schools may appeal the denial of their amended applications by a local board of education to the State Board of Education (State Board).

On Tuesday, July 17, 2012, a hearing was held at the Metropolitan Nashville Board of Public Education (MBPE) in Nashville, Tennessee, to consider Excel Charter Academy's appeal of the denial of its application by the MBPE.

Based on the following procedural history and findings of fact, I believe that the decision to deny Excel Charter Academy's application was not "contrary to the best interests of the pupils, the school district, and the community", and therefore recommend that the Board affirm the decision of the Metropolitan Nashville Board of Public Education.

PROCEDURAL HISTORY

1. On May 30, 2012, the Metropolitan Nashville Board of Public Education unanimously denied Excel Charter Academy's initial application, following the unanimous recommendation of the Metropolitan Nashville Public Schools (MNPS) charter school review committee.

2. Excel Charter Academy amended and resubmitted its application on June 13, 2012.

3. On June 26, 2012, the MNPS Charter School review committee recommended denial of Excel Charter Academy's amended application. Subsequently, the Metropolitan Nashville

Board of Public Education unanimously voted to deny the amended application of Excel Charter Academy.

4. Excel Charter Academy then appealed the denial by email to the State Board, received June 27, 2012.

FINDINGS OF FACT

1. MNPS' Office of Innovation, Division of Charter Schools, worked closely with the National Association of Charter School Authorizers (NACSA) to set up an evaluation process that embodied best practices from authorizers throughout the country. In accordance with the NACSA Principles and Standards, four (4) review teams were assembled to review the applications that MNPS received. Each team consisted of a team lead plus individuals who had expertise with curriculum, special education, English language learners, charter school financials, operations, management and legal compliance. Each team was given extensive training in application review and interviewing techniques.

2. The MNPS Charter School Review Committee team evaluating the Excel Charter Academy application included the following individuals:

- a. Gini Pupo-Walker, Team Lead – Director of Family Involvement, MNPS
- b. Candice McQueen – Dean of Education, Lipscomb University
- c. Donna Hackett – ESEA Grant Consultant, Federal Programs, MNPS
- d. Amy Banes – School Improvement Program Facilitator, MNPS
- e. John Mann – Acting Executive Director ELL, MNPS
- f. Derrick Williams – Family Involvement Specialist
- g. Dan Killian – Special Projects Coordinator, Exceptional Education, MNPS
- h. Dalila Duarte – Doctoral Candidate, TSU, Intern with Gini Pupo-Walker
- i. Jill Flaherty – High School Coordinator, MNPS

3. Ex-Officio members of the MNPS Charter School Review Committee included:

- a. Dr. JoAnn Brannon, Board Member, MNPS Board of Public Education
- b. Alan Coverstone, Executive Director, Office of Innovation, MNPS
- c. Carol Swann, Coordinator of Charter Schools, MNPS

4. Using the TN Department of Education’s (TDOE) scoring rubric as a guide for evaluating the application, the review committee scored the application, combining the TDOE’s thirteen separate areas of scoring into four main domains: Educational Plan, Organizational Plan, Business Plan, and Evidence of Capacity.

5. To be recommended for approval to the MBPE, applicants must meet or exceed the criteria in all four areas.

6. On the initial application, Excel Charter Academy’s application was labeled according to the scoring criteria developed and promulgated by the Tennessee Department of Education. Excel Charter Academy’s initial application scored as follows:

Educational Plan	Does Not Meet the Standard
Organizational Plan	Partially Meets the Standard
Business Plan	Partially Meets the Standard
Evidence of Capacity	Does Not Meet the Standard

7. After the Metropolitan Nashville Board of Public Education (MBPE) voted to deny Excel Charter Academy’s initial application, MNPS sent Excel Charter Academy the complete recommendation report of the committee, the average scores from the committee, and overall reasons for denying the Excel Charter Academy Charter School application.

8. Excel Charter Academy’s amended application scored as follows:

Educational Plan	Partially Meets the Standard
Organizational Plan	Partially Meets the Standard
Business Plan	Partially Meets the Standard
Evidence of Capacity	Does Not Meet the Standard

9. After review of the application, the committee unanimously recommended denying the amended application. Ultimately, the Board determined that the authorization of the charter would be contrary to the best interests of the students of Metropolitan Nashville Schools. The committee had the following specific concerns:

a. Education Plan- The committee noticed lack of a clear description of the proposed curriculum plan, as well as a lack of explanation regarding how the various proponents would be implemented. The committee also noted that a coherent and effective strategy for students with disabilities and English language learners was missing, even though teachers with dual certification would be hired. They found that the application contained no plan to support students who were failing classes or unable to keep pace with the learning environment.

b. Organizational Plan- The committee also found that the application was unclear in describing how high quality staff would be recruited and retained and noticed that the budget failed to account for the professional development needs of the staff. They specifically cited several areas where staff roles and recruitment plans for attracting students were not well defined.

c. Business Plan- Funding to implement the plans given in the application was a major concern for the committee. Primarily, the committee had questions regarding whether local funding would be required to be added to the state Basic Education Program (BEP).

d. Evidence of Capacity- In the absence of curriculum and evidence-based research on the implementation of a program such as this, the committee felt that they could not truly evaluate the applicant's capacity to effectively implement this program.

CONCLUSION

State law requires the State Board of Education to review the decision of the local board of education and determine whether the denial of the charter school was in the "best interest of

the students, school district, and the community.”¹ Approval of public charter school must be “in the form of a written agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of the public charter school.”² This means that when the local board of education votes to approve a charter school, it must be ready to sign that binding document at the same time, just as it would any other contract it approves.³ Because of the important nature of such a contract, the charter sponsor must take care to include details with enough specificity that an authorizer can measure, with confidence, the school’s likelihood of success upon approval.

After the July 17 hearing, I have no doubt that Excel Charter Academy organizers have the passion, community support, and organizational support for their proposed charter school. However, after reading the application, reviewing the recommendation of the committee, and hearing the evidence presented by Metropolitan Nashville Public Schools, it appears that the application lacked clear and sufficient details in the curriculum that would be utilized within the program. Excel Charter Academy representatives repeatedly referenced adherence to State Board curriculum standards. However, there is a distinction between curriculum standards and the actual curriculum that would be utilized to meet those standards. It became clear to me Excel Charter Academy organizers did not recognize this distinction and that, because of this, actual curriculum had not been identified. Because the identification of curriculum is essential to the success of this type of program, I agree that without this essential element, the committee would have had great difficulty in determining the likelihood of success for this program.

¹ T.C.A. § 49-13-108(a)(3).

² T.C.A. § 49-13-110(a).

³ The Tennessee Attorney General recently confirmed that this is what the statutory language means. See Op. No. 10-45, available at <http://www.tn.gov/attorneygeneral/op/2010/op/op10-45.pdf> (last viewed July 21, 2010).

For these reasons, I do not believe that the decision to deny Excel Charter Academy's charter application was contrary to the best interests of the students, the school district, and the community. Therefore, I recommend that the State Board of Education affirm the decision of Metropolitan Nashville Board of Public Education.



Dr. Gary L. Nixon, Executive Director
State Board of Education

7-25-2012
Date