POCONO MOUNTAIN SCHOOL DISTRICT
BOARD OF SCHOOL DIRECTORS

IN RE: SUMMIT CHARTER SCHOOL
2019 CHARTER SCHOOL APPLICATION

ADJUDICATION

The Board of School Directors ("School Board") adopts this Adjudication regarding the 2019 Charter School Application ("Application") filed with the Pocono Mountain School District ("School District") by the applicant for the Summit Charter School ("Applicant", "Charter School" or "Summit"). For the reasons that follow, the Application is denied.

I. Findings of Fact

1. On November 14, 2019, the Applicant filed the Application with the School District. (SCS 1-533, 543-2287).

2. On November 27, 2019, Dr. Elizabeth Robison, Superintendent of Schools, wrote to the Applicant acknowledging receipt of the Application on November 14, 2019, and advising the Applicant of the scheduling of a public hearing for December 18, 2019. Dr. Robison’s letter also stated as follows:

   The Application should have been complete upon submission to the School District; however, for purposes of clarity, should the applicant desire to submit any additional information, the applicant must submit those materials so that the documents are received by the School District no later than Tuesday, December 3, 2019. Any supplemental materials received after December 3, 2019, will not be accepted or considered.

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1 The record for the Application will be referred to by reference to the Bates Stamped number beginning with the prefix “SCS”.
3. The Applicant signed an acknowledgement of the letter on December 2, 2019. (SCS 2288-2289).  

4. The Applicant submitted supplemental materials by the December 3, 2019 deadline, and those are included in the record.  

5. On December 18, 2019, the School Board held a public hearing on the Application. The public hearing was stenographically recorded.²  

6. A second public hearing was held on February 5, 2020, which was also stenographically recorded.  

7. On February 5, 2020, the administration of the School District gave an Administrative Report containing an evaluation of the Application, which was supplied to the Applicant.  

8. Following the second hearing, the School District permitted the Applicant to submit a concluding document to further assist the School Board in its review and to respond to issues raised in the School District administration’s review of the Application.  

9. The complete record under review by the School Board regarding the Application includes the following documents:  

   a. The Application including all submitted attachments except the curriculum, marked as Charter School Exhibit No. 1 (SCS 1-533; 12/18/19 N.T. 12);  
   b. Supplemental materials submitted by the Applicant on December 3, 2019, marked as Charter School Exhibit No. 2 (SCS 534-542; 12/18/19 N.T. 13);  

² The Notes of Testimony from the hearings will be referred to as “[Date of hearing] N.T. [page number from transcript]”. 
c. Curricular materials submitted by the Applicant as part of the Application submission on November 14, 2019, marked as Charter School Exhibit No. 3 (SCS 543-2287; 2/5/2020 N.T. 95);
d. Letter dated November 27, 2019 from Dr. Robison to the Applicant with the Applicant’s signature acknowledgment dated on December 2, 2019, marked as School District Exhibit No. 1 (SCS 2288-2289; 12/18/19 N.T. 12);
e. Proof of advertisement of the December 17, 2019 hearing, marked as School District Exhibit No. 2 (SCS 2290; 12/18/19 N.T. 13);
f. January 6, 2020 letter from Dr. Robison to the Applicant regarding the second hearing date, marked as School District Exhibit No. 3 (SCS 2291; 2/5/2020 N.T. 94);
g. Proof of advertisement of the February 3, 2020 hearing, marked as School District Exhibit No. 4 (SCS 2292; 2/5/2020 N.T. 94);
h. Resolution passed by the Board of School Directors on December 4, 2019 regarding the procedure for consideration for charter school applications, marked as School District Exhibit No. 5 (SCS 2293-2296; 2/5/2020 N.T. 95);
i. The Administrative Review and Report issued by the School District, marked as School District Exhibit No. 6 (SCS 2297-2422; 2/5/2020 N.T. 136);
j. The Applicant’s Concluding Document submitted on February 14, 2020 (SCS 2423-2472);
k. Transcript from the December 18, 2019 hearing; and
l. Transcript from the February 5, 2020 hearing.
The School District's Policy on Charter Schools and Charter School Application Procedures

10. The School District’s Policy 140 on “Charter Schools”, publicly available at https://go.boarddocs.com/pa/pmsd/Board.nsf/Public#, was last modified in 2003. Policy 140 requires charter school applicants to submit written responses to various questions identified in the policy as “Hurdle Criteria”. The Applicant provided those responses to the Hurdle Criteria simultaneously with the submission of its Application. (SCS 1-11).

11. The initial board hearing was then scheduled after submission of the Application and the Hurdle Criteria, in accordance with the hearing requirements of the Charter School Law, which requires a hearing to be held within 45 days of receipt of the application.

12. The School Board must comply with the requirements and timelines in the Charter School Law for the processing of charter school applications and the holding of hearings.

13. The School District’s Policy 140 does not provide any authority for charter applicants to submit supplemental materials after an application is submitted.

14. On December 4, 2019, the School Board voted at a public meeting to adopt the “Resolution Regarding Charter School Application Procedures” (“Resolution”), which provides additional information regarding what would occur at the public hearings and how applications would be processed. (SCS 2293-2296).

15. The Resolution, *inter alia*, requires the “School District to establish a deadline for the submission of any supplemental materials by the applicant, after which no additional materials will be accepted and/or considered by the Board, except in the Board’s sole discretion.” (SCS 2294).

16. Prior to the adoption of the Resolution by the School Board, the School District had established a deadline for submission of supplemental materials of December 3, 2019, which was
conveyed to the applicant in the emailed letter dated November 27, 2019, and acknowledged by the Applicant on December 2, 2019. (SCS 2288).

**Founding Group**

17. The founding group is composed of individuals associated with Summit School of the Poconos ("SSP"), a private school licensed by the State of Pennsylvania operating in the East Stroudsburg School District. (SCS 12, 15).

18. SSP has existed since the 2016-2017 school year when it opened with 50 students in Kindergarten ("K") through 8th grade. Since its inaugural year, SSP has enrolled 63 students in the 2017-2018 school year in K-9; 70 students in the 2018-2019 school year in K-10; and currently enrolls 74 students in the 2019-2020 school year in K-10. (12/18/19 N.T. 37-39).

19. SSP utilized mixed-grade classes with approximately 15 students per class in grades 1-10 and 10 students in K. (12/18/19 N.T. 33-35).

20. As a private school, SSP does not have any special education programs or implement Individualized Education Plans ("IEP"), nor does SSP employ any special education teachers. (2/5/2020 N.T. 98-99).

21. Four students with disabilities currently attend SSP, and SSP assists with the support plans for those students. (2/5/2020 N.T. 98-99).

22. Katherine Hernandez is the Education Director of SSP, a position she has served in since the beginning of the 2019-2020 school year. Ms. Hernandez is the person identified to serve as the CEO/Principal for the Charter School for Year 1. Ms. Hernandez holds a Pennsylvania certification in secondary English, but does not have a principal’s certification or any other supervisory or administrative certification, although she is working on obtaining a principal’s certification prior to the Charter School’s opening. (12/18/19 N.T. 49-50; 2/5/2020 N.T. 99-100).
23. Ms. Hernandez is the fourth Education Director to serve SSP since it opened in 2016-2017. (2/5/2020 N.T. 100).

24. If a Charter would be issued by the School Board to the Applicant, an entity called “the Summit Charter School” would hold the Charter, and SSP would be dissolved and would cease operations. (12/18/19 N.T. 32-33, 48)

25. The Applicant makes a number of unsupported assumptions about the School District throughout the Application, which call into question the Applicant’s familiarity with the instructional programming and opportunities available to students in the School District to which it is applying. For example, at the initial hearing, the rationale provided by the Applicant for why a movement-rich environment is needed included a comparison with a “traditional setting of straight rows of desks with a teacher lecturing to quiet, still children from the front of the classroom.” (12/18/19 N.T. 21). Repeated references were made to the fact that SSP provides flexible or alternative seating options for students. (SCS 29; 2/5/2020 N.T. 186). The Applicant suggests that students don’t have much of a voice in public schools and that public schools are only engaged in “crowd control.” (12/18/19 N.T. 21).

26. When School District employees provided comments at the public hearings that suggested that aspects of what the Charter School is offering is already in place in School District classrooms, the Applicant questioned whether such opportunities were only recently put in place in response to the Application filing. (2/5/2020 N.T. 186).

27. The School Board finds that the Applicant’s representations about what does or does not occur in School District classrooms and buildings are inaccurate and provide false comparisons to suggest that much of the programming that it intends to offer would serve as a “model” for other public schools.
28. The Applicant has shown that it does not have any depth of knowledge about programs, strategies and resources available in the School District.

Curriculum and Educational Program

29. SCS would open in the 2020-2021 school year with 360 students in Kindergarten through 11th grade. Enrollment would rise to 460 students in Kindergarten through 12th grade in year 2, and then continue rising with the same grade structure to ultimately serve 860 students by year 5 of the Charter. (SCS 9, 16, 274-275).

30. At scale in year 10, the Applicant proposes to have 100 students per grade enrolled in the Charter School, or a total of 1,300 students. (SCS 274-275).

31. The budget is based on full enrollment of 360 students in year 1. (SCS 398).

32. The Mission of the Charter School is stated as follows: “Summit Charter School will provide a movement-rich, project-based environment, grounded in shared governance, where students demonstrate an active voice and ownership in their education.” (SCS 18).

33. The Applicant suggests that certain aspects of the Charter School are unique, such as having a democratic school community, shared governance and the use of restorative practices. The democratic school community and shared governance aspects are supposed to be implemented through the use of a School Meeting structure where student voice will be heard about school rules and ideas, and through the use of a Justice Committee as a means of conflict resolution. (SCS 18-19, 23).

34. When discussing the School Meeting, the Applicant provided examples of how that meeting process has worked within SSP, as a very small school with between 50-74 students. Missing from the Application is any discussion of how the School Meeting structure would operate in the Charter School model when enrollment would be 360 students in year 1, going up to 860
students in year 5, and ultimately 1300 students by year 10 in a K-12 structure. (2/5/2020 N.T. 107).

35. The Applicant’s projected enrollment would cause the Charter School to have one of the largest building enrollments in the Monroe County region without any delineation of how students of varying ages would be separated and how programming would overlap.

36. Similarly, the Applicant did not provide any information as to how a Justice Committee(s) would function with the proposed increased enrollment and grade structure; how confidential student information would be protected within the operations of a Justice Committee; or how the Justice Committee would address the needs of special education students who have broken school rules within the requirements of applicable law. (SCS 2301).

37. The use of restorative circles would be part of the daily and weekly structure of the Charter School, but no documents or information were provided as to how teachers would be guided to use restorative circles within their classroom or how those circles would be made part of the school’s activities. (2/5/2020 N.T. 107-108).

38. MicroSociety is referenced in the Application as an option the Applicant might implement, which would turn a portion of the school day into a student-run miniature society. (SCS 23-27). When asked at the hearing if the MicroSociety program would be purchased, the Applicant responded affirmatively, but then indicated that it has not yet been determined what aspects of the MicroSociety customizable program would be purchased. (2/5/2020 N.T. 108-109).

39. Because the Applicant’s budget documents lack detail as to what is contained within the line items, the School District is unable to determine whether the Applicant has adequately budgeted to purchase the MicroSociety program as well as provide sufficient instructional aides, instructional software and books to implement the full curriculum in grades K-11 in Year 1 plus
fund a library or classroom libraries with a $88,000 forecasted budget. (2/5/2020 N.T. 109-112).

Applicant representatives could not provide specifics about the budgeted line items when asked at the second hearing. (2/5/2020 N.T. 111-112).

40. Ms. Hernandez is overseeing the Applicant’s curriculum development (12/18/19 N.T. 52), despite not having a principal’s certificate, a curriculum supervisor certificate or any other administrative certification.

41. The existing teaching staff at SSP prepared the curriculum documents in the Application. (12/18/19 N.T. 52).

42. According to the Applicant, “all of our curriculum is teacher designed and we had our teachers use whatever resources they find that they vet for themselves that they find are standards aligned and that they think are high quality for what they’re doing in their classrooms.” (12/18/19 N.T. 52).

43. Appendix A of the Application contains the totality of curriculum materials submitted by the Applicant. (SCS 543-2287). Regarding those documents:

a. For middle and high school grades, only one core subject area course appears for each grade level in English Language Arts, math, science, social studies, art and Spanish. There is no differentiation evident (either within the course itself or in the form of more advanced courses) for advanced learners or learners with different needs.

b. No Advanced Placement courses will be offered.

c. No elective offerings are included for any subject.
d. No documents are provided for health or physical education courses or music courses even though the Applicant represented at the hearings that such subjects would be taught in all grades, K-12. (2/5/2020 N.T. 113-114).

e. No documents reflect family and consumer science standards and requirements.

f. A second world language is not reflected in the documents even though Chapter 4 requires students to have access to world language instruction in at least two languages in addition to English, 22 Pa. Code § 4.25(a). The Applicant testified that offering a second language would not occur in year 1, and would need to be put to a vote by the Charter School student body. (2/5/2020 N.T. 112-113).

44. All students at the school, regardless of grade, would have recess in addition to their regular physical education class schedule. (SCS 28). No information is provided as to how “recess” would be structured for middle and high school students, how recess would fit into the instructional schedule for any such student, or whether recess is developmentally appropriate for students in those grades.

45. No sample schedules have been provided for students in any grade level. Because the scope and sequences for the subjects and grades identified in Appendix A do not identify the allocated instructional time, it cannot be determined how much instructional time students would spend in any class or subject. (SCS 2302).

46. In the section of the Application called “College and Career Planning,” the Applicant describes how high school students will have the ability to take part in test preparation for the SAT and ACT, will be assisted with the exploration of college application process, and will be offered curriculum that assists to “navigate career choice, salary negotiation, networking, understanding the cost of living and income ratio, etc.” (SCS 63). The courses or offerings wherein these
opportunities will be given to students are not identified in the Application, nor reflected in the curricular documents.

47. Documents provided within Appendix A are linked to the Summit Learning platform. (SCS 2313). At the hearing, the Applicant stated that the Summit Learning online platform would not be utilized by the Charter School (2/5/2020 N.T. 112), raising questions about the resources available to teachers to implement the curriculum.

48. The Application does not contain any discussion about graduation requirements. There is no indication of the required number of credits needed to graduate; what requirements must be met by a student to graduate; what courses or electives will be offered to students; or how grade point average or class rank would be calculated and reported to families and post-secondary institutions. (SCS 2314).

49. Internships and apprenticeships are discussed in the Application (SCS 64), but without any plans for how, when or where such opportunities would occur or how those opportunities would fit into the course or credit structure for graduation. (SCS 2314).

50. The Application does not contain a credit recovery or remediation plan to address students who might enroll in the Charter School in the middle of their high school years substantially behind in credits toward SCS graduation requirements and need to graduate on-time.

51. As a private school, SSP does not implement standardized testing. (SCS 20).

52. The academic goals and objectives included in the Application do not include the accountability areas identified in Pennsylvania’s Consolidated State Plan, the Every Student Succeeds Act (“ESSA”) and the Future Ready Index accountability system. No goals reflect subgroup achievement performance, academic growth, absenteeism, graduation rate, English Language growth and proficiency, and college and career readiness measures. Further, there are

53. The Applicant did not know which course would be the triggering course to take the Keystone Literature Exam or in what year the Keystone Biology Exam would be taken. (2/5/2020 N.T. 119).

54. A Personal Finance course is now required in Pennsylvania, but it is not evidenced at any grade level in the Application. (SCS 2311).

55. The School Board agrees with the administration’s assessment that the Applicant does not include any materials regarding any guidance curriculum to outline the full direct and indirect services provided to students by the school counselor, the scope and sequence of the guidance curriculum, and the mandated Career Education and Work Standards that are needed to meet the PA Future Ready Index. (SCS 2323).

56. The School District’s Administration reviewed the totality of curricular and instructional materials provided by the Applicant in the Application. The administration concluded that the Applicant’s submitted documents did not evidence complete, appropriate, standards-aligned planned instruction as defined in Chapter 4 for all subjects to be offered and required to be offered, and also contain deficiencies when compared to the standards applicable to high schools in Pennsylvania. The School Board incorporates herein and adopts the totality of findings raised in the Curriculum and Instruction section of the Administration’s report found on SCS 2303-2312.

   Education of English Learners (“ELs”) and Special Education Students

57. The Charter School anticipates serving a population of ELs and will employ English as a Second Language teacher. (SCS 93, 399).
58. The Application does not contain any discussion about services or programs to be used with ELs.

59. No Language Instruction Educational Program is provided that contains the eight elements required under Pennsylvania Department of Education guidance, which is based on federal and state law.

60. The Applicant suggests in its concluding document that the form charter school application prepared by the Pennsylvania Department of Education ("PDE") does not require information to be provided about services to English Learners. (Concluding Document, ¶ 175). The School Board disagrees. Educating all EL students would be part of the educational program of the charter school, which should be described in the "Educational Program" section of the Application required by PDE and addressed in the curriculum and content submission. (SCS 30). An appropriate program for each student whose dominant language is not English is a requirement of Chapter 4, per 22 Pa. Code § 4.26.

61. The School District administration found, and the School Board agrees, that no information is provided about a program for students whose dominant language is not English. The administration’s findings in “4. English Learners (EL”) are incorporated herein. (SCS 2315-2317). These are additional deficiencies in the Applicant’s planning.

62. The Application contained a lengthy description of the legal requirements that charter schools must comply with in terms of special education programming, but lacked details as to what specific special education programs and resources the Charter School anticipates using with students with disabilities at any grade level. (SCS 41-70).

63. Rather than discuss the types of supports and programs that the Charter School will be prepared to offer students with disabilities who enroll, the Applicant refers to private placements
and alternative placements throughout the document for students whom the Charter School “may not be able to provide an appropriate educational setting.” (See e.g. 47, 49, 53). While there may be some students whose significant disabilities may not permit education in the regular school environment, those students will be the exception, not the norm in order for the Charter School to be in compliance with least restrictive environment requirements. The School Board agrees with the Administration that the Applicant has not provided sufficient information to suggest that it has properly planned to educate special education students, regardless of need. (SCS 2319-2320).

64. The Applicant references a Multi-Tiered System of Supports (“MTSS”) and compliance with Chapter 711 intervention requirements (SCS 42-44), but does not provide any details about the screening and tiered intervention system that will be used. When asked about this at the second hearing, the Applicant indicated that it had not yet determined what screeners would be used, what interventions might be implemented, what data systems would be used and how progress monitoring would occur. (2/5/2020 N.T. 120-121).

65. The Application included the Annual Public Notice policy and the FERPA policy; however, these policies were for another entity(ies), the Coatesville Charter School or Coatesville Innovation Charter School. (SCS 230-231, 398).

Professional Development

66. On SCS 130-131, the Applicant provides a general overview of when professional development might occur. The overview lacks any details about specific professional development sessions, when they would occur within the school calendar, who would lead the sessions, or when State-mandated trainings would occur.

67. The Application does not indicate when teachers would be meeting to “spend several weeks during the summer developing curriculum, collecting materials and working together to plan and
coordinate thematic curriculum within and across grade levels;” how teachers would be compensated for those weeks of work; and what qualified individual(s) would be leading the development of such curriculum to ensure alignment with applicable State standards. (SCS 130).

68. No professional development plan or teacher induction plan was submitted.

Admissions and Enrollment Process

69. The Application contains the following statement in both the narrative and in the Enrollment Policy found in the Student Handbook:

**Bilateral fit – Student and School:**

In order to ensure that parents and students who are express interest in attending our School understand and are interested in the specific school culture we provide, we will continue to meet with prospective parents/guardians to further explain what makes us different . . . . Parents and their children should understand the importance of interest in project based learning and participation in our democratic and civic-centered culture. Time spent with prospective parents and students will serve to educate potential students and parents alike on the articular learning style the school will utilize. Parents will need to know that EVERY child will participate in hands on projects on a weekly, if not daily basis. EVERY student is required to participate in our democratic functions such as School Meeting, JC [Justice Committee], and restorative practices.

The meeting will not serve as a basis for acceptance, but to more appropriately to (sic) introduce families to our school and to ensure that the Summit Charter School is the proper fit for the student.

(SCS 119-120, 526) (emphasis in original).

70. The Application contains conflicting information about what would be required for the admission and enrollment process and when that information has to be provided.

71. “Parents of children interested in applying for admission must complete and return an accurate application form to the school’s main office by the deadline provided by the school.” (SCS 120, 414). The application form was not provided in the Application.
72. On SCS 122, various documents are listed as being required prior to a student starting school “such as birth certificate, proof of residency, and immunizations and other health records”. It is not clear what other documents would be required prior to the start of school.

73. The narrative later states that, after students’ names are drawn from the lottery:

The school will also contact the family by phone and/or email and will inform them of the deadlines established for the completion of the enrollment process and orientation workshops. The following additional documentation is required for enrollment:

- Student Application
- Student Enrollment Notification Form
- Immunization and medical forms as required by law
- Family Information sheet
- Permission for Field trip form
- Emergency Contact form
- Photo and video authorization or denial form
- Signed and dated Family Acknowledgement of Receipt of the Student & Families Handbook
- Student Transportation Plan Form

If there is no response from the family within the established deadline, they will relinquish their spot and Summit Charter School will contact the family of the next student on the waiting list.

(SCS 124) (italics added).

74. In the special education section, the Applicant indicates that families will be asked during enrollment if their child has an Individualized Education Plan (“IEP”) or a 504 plan. (SCS 55). None of the information provided in the admission section identifies when IEP, 504 or other academic records would be sought from parents.

75. The Application contains multiple statements indicating that the enrollment process will comply with Pennsylvania law and that the Charter School will enroll students without prejudice of any kind, including a special education need. (See e.g., SCS 119, 120, 121).
76. However, the “Bilateral Fit” statement, the type of documentation that is described on SCS 124 as a requirement for enrollment, and the lack of clarity and consistency throughout the description of the admissions process regarding what must be submitted and when do not establish that the Applicant’s admissions and enrollment process are in compliance with Pennsylvania law.

77. The Admission of Students Lottery Process Policy contains inconsistent preferences for enrollment compared to those that appear elsewhere in the Application. (Cf. SCS 123, 414-416, 529-530).

78. The Applicant proposes to give preference for enrollment to grandchildren of the founders and board members. (SCS 125; 2/5/2020 N.T. 121-122).

**Suspension and Expulsion Procedures**

79. The narrative section in the Application where the Applicant is to “[d]escribe your school’s policies regarding student expulsion and suspension” informs the reader to see the draft of the Student and Families Handbook for information, which is appended to the Application. (SCS 134).

80. The narrative further states: “There will be three levels of disciplinary measures utilized by the school: 1) Warning, 2) Suspension, and 3) Expulsion. Each level has associated conduct breach definitions and corresponding disciplinary actions that may occur.” (SCS 134).

81. A “Student Handbook” is appended to the Application, and contains a section called “Discipline Policy.” (SCS 454-533).

82. While the Discipline Policy section contains a discussion about the Justice Committee, the role of the Justice Committee in disciplinary consequences for particular behaviors is not disclosed or woven into the overall disciplinary process. (SCS 503-515).

83. The Handbook does not contain any discussion of any other types of restorative practices that would be utilized as part of the disciplinary process or in what circumstances.
84. Some conduct that “may be grounds for expulsion” are listed on SCS 506, but the document does not contain an exhaustive list with the result that students and families would not be on notice of the requirements. For example, the discipline policy in the Handbook does not reference weapons offenses.

85. The discipline policy in the Handbook omits information about what conduct would constitute grounds for in-school suspensions, out-of-school suspensions or infractions that would result in a warning, as described in the narrative.

86. One of the types of offenses listed as grounds for expulsion in the Handbook includes the following: “Violation by a student, parent, or guardian of a policy or procedure as set forth in this student handbook (i.e. student, parent, or guardian have demonstrated they do not value the student’s place at the school).” (SCS 506).

87. Within the discipline section of the narrative, the Applicant also references the implementation of “an evidence-based, data-driven, school-wide program of positive behavioral supports to improve the academic and social outcomes of all students.” (SCS 137). However, no information was provided about what the program(s) would be, how the program(s) would differ at the varying grade levels served by the Charter School, when it would be implemented, who would be involved in the implementation, and how those involved would be trained to implement it with fidelity.

Community Support

88. Thirty-five (35) letters of support are provided in the Application and supplemental materials, although the two letters in the supplemental materials are not signed. (SCS 297-3331, 541-542).
89. Of the 33 letters of support in the original submission, nine (9) are from businesses located in the School District and an additional five (5) are from parents who reside in or own property in the School District. (SCS 2337).

90. A spreadsheet of pre-enrollments is included in the Application, with an updated spreadsheet provided on December 3, 2019. (SCS 293-295, 536-540). Two hundred and twenty-five (225) grade-eligible students are listed in the updated spreadsheet, along with their home address, grade and district of residence. Of those 225 grade-eligible students, 91 are residents of the School District. (SCS 2338-2339).

91. The Applicant did not provide anything in writing from the individuals identified in the spreadsheet (either from the students or, if minors, their parents or guardians) to indicate pre-enrollment or interest had been sought in the proposed Charter School. The Application does not explain what triggered the inclusion of those individuals in the spreadsheet or whether the individuals had provided permission or authorization for their inclusion as evidence of support for the Charter School.

92. At the December 18, 2019 and February 5, 2020 hearings, a total of nine (9) individuals provided public comment in support of the Applicant. Several of the nine (9) people spoke at both hearings. (12/18/19 N.T. 53-83; 2/5/2020 N.T. 192-253). Five (5) of the individuals who spoke also submitted letters of support (Mr. Farda, Mrs. Kollar, Ms. Thompson, Ms. McKissick, and Mr. McKissick). All but 2 (Ms. Tullo and Ms. Lwanga) of the individuals are part of the Founding Coalition. (SCS 299, 320-321, 322, 326, 333-337).

93. The School Board and presiding officer did not permit minor children under the age of 18 to speak during public comment at the public hearings. (12/18/19 N.T. 53-54). The Applicant suggests this prohibition was intentional to silence student voices. (2/5/2020 N.T. 187-188).
However, parents or guardians of minor students were permitted to speak and could have spoken for their child/children, regardless of what viewpoint they wanted to express. Absent a child being legally emancipated, parents or guardians are the only individuals who have the authority to enroll a student in a charter school or make educational decisions for a child under the age of 18.

Facility

94. The Charter School is proposed to be located in a building owned by Northampton Community College ("NCC"). (SCS 111).

95. The Applicant stated in the Application and at the first hearing that it is the intention of the Charter School to purchase the building from NCC, and that the Charter School would own the building. (SCS 111; 12/18/19 N.T. 44-45).

96. At the end of the questioning at the second hearing, for the first time, the Applicant disclosed that the Charter School may not own the building, but rather a foundation could own the building, and that the ownership decision had not yet been made. A foundation has not yet been established; nor has it been determined who would sit on the board of a foundation. (2/5/2020 N.T. 134).

97. Nothing was submitted in the Application evidencing NCC’s willingness to sell or lease the facility to the Charter School or what the anticipated purchase price would be.

98. The Charter School, NCC and/or the proposed Charter School foundation have not yet reached an agreement on the sale of the building. (12/18/19 N.T. 43; 2/5/2020 N.T. 126).

99. Information was provided that indicated $25 Million in financing would be needed for the renovations reflected in the Projected Facilities Growth Plan. (SCS 405-409).
100. Letters were provided from Charter Schools Development Corporation, the Reinvestment Fund and PNC Bank expressing interest in having further discussions with the Applicant about funding. (SCS 411, 412, 534).

101. None of the lender letters references bond financing.

102. At the second hearing, the Applicant disclosed for the first time that bond financing with a 30-year term is being considered. (2/5/2020 N.T. 127-128). The Application does not disclose or discuss the Charter School or Charter School foundation’s ability to obtain financing or the planning that has occurred to ascertain one or more of those entities’ ability to obtain bond financing as a start-up entity.

**Financial Planning and Staffing**

103. All of the current faculty at SSP are expected to transition to employment at the Charter School. (SCS 132). However, no clearances were provided for any of the existing faculty.

104. No start-up budget is provided.

105. The Application contains outdated references to the Federal Savings and Loan Insurance Corporation, which has not existed since the late 1980s. (SCS 108, 2329).

106. The Application’s budgeted revenue anticipated from local districts only reflects payment at the School District’s rates, which has the highest rates in Monroe County. (SCS 2332-2333). Given the fact that the limited pre-enrollment information provided reflects that a majority of the potential enrollment of students will come from other school districts in Monroe County, the budgeted revenue reflects poor planning. If the revenue was recalculated using the percentages of students evident in the pre-enrollment data submitted in the Application calculated using the rates from other school districts, the Charter School would be operating at a deficit in Year 1 and Year 2 per the recalculations made by the Administration in SCS 2340-2343.
107. The budget does not reflect any expenditures to purchase the assets of SSP; however, the Applicants represented at the second hearing that the Charter School would likely purchase those assets upon the dissolution of SSP. (2/5/2020 N.T. 96-97).

108. The budget also does not include any funds for payment to the School District for reimbursement for extracurricular participation by Charter School students or for expenditures for extracurricular activities offered by the Charter School, security staffing or security expenditures, student activities, or the provision of substitute teachers. (SCS 388-399, 2331).

109. The Charter School’s staffing requirements are unclear because the Applicant never identified how many teachers would be needed at each grade level or even how many teachers are needed at the elementary level or secondary level. Given the programming and certification differences, these omissions are significant. It cannot be determined what staffing will actually be needed to implement complete Chapter 4-compliant programming in light of these deficiencies.

110. According to the Applicant’s representations on the “Application Fact Sheet,” the Applicant does not have an existing retirement system. (SCS 17).

111. The Applicant proposes to have its employees enroll in an alternative retirement plan rather than participate in the Public School Employees Retirement System ("PSERS"). (SCS 132, 439). The alternative retirement plan proposed supposedly would be a 403(b) plan with a 5% employer match (Id.); however, no plan documents (approved or proposed) were provided with the Application.

112. Should the alternative retirement plan not be approved by PSERS, the Applicant will incur PSERS expenditures, which will adversely affect the financial health of the Charter School by several hundred thousand dollars per year.
113. The Application states: “To the best of the School’s ability, given the constraints of the health insurance marketplace, every employee of a charter school shall be provided the same health care benefits (ex. Medical, dental, vision, prescription etc.) as the employee would be provided if he or she were an employee of the local district. These products will be obtained when the charter is secured, the Board established, assets acquired, etc.” (SCS 115).

114. The Applicant did not identify any health insurance plans or provide any information about the coverages, co-pays and premium share for any employee insurance.

115. At the second hearing, when asked what the Applicant’s broker did to find out what health insurance plans were offered by the School District, the Applicant could not say whether any research or inquiries were made to determine what the School District offers its employees. (2/5/2020 N.T. 124-125).

116. The Applicant did not provide any information from an insurance broker or other professional regarding the insurance coverage that would be procured, the policy limits for the various types of coverage or the costs for such coverage.

Student Safety

117. In the “Safety” section of the Application in response to the prompt to “submit written documentation of intent to comply with all applicable safety requirements”, the Applicant did not address Safe2Say requirements applicable to charter schools or submit any documents that explain how the Charter School would implement all Safe2Say procedures and requirements. (SCS 157-158, 2326).

118. No security personnel are included in the budget for a school that would educate hundreds of students in K-12.
Governance

119. The Bylaws provided in the Application are for an entity to be called “Summit Charter School Inc.” (SCS 371).

120. Articles of Incorporation (“AOI”) for an entity to be called “Summit Charter School, Inc.” were not provided with the Application or submitted by the Applicant within the supplementation period.

121. All members of the Charter School’s governing board would be required to sign a Confidentiality and Nondisclosure Agreement. (SCS 102). No explanation is provided for what that is required or would be appropriate for the governing board of a public charter school.

II. Evaluation Standards

The Charter School Law (“CSL”), Act of June 19, 1997, P.L. 225, as amended, 24 P.S. §17-1701-A et seq., 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:

A. The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing;

B. 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;

C. The extent to which the application addresses the issues required by the CSL; and

D. 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 from the State Charter School Appeal Board ("CAB") and the appellate courts interpreting these requirements provide additional parameters for the School District's review. Against this backdrop, the Application filed for the Charter School will be examined.

III. Analysis

A. The Applicant Has Not Demonstrated Sustainable Support for the Charter School Plan by Teachers, Parents, Other Community Members and Students.

Section 1717-A(e)(2)(i) of the CSL requires the applicant to demonstrate "sustainable support for the charter school plan by teachers, parents, other community members and students" within the community where the charter school is to be located. 24 P.S. § 17-1717-A(e)(2)(i). "Sustainable support" has been defined by CAB as "support sufficient to sustain and maintain a proposed charter school as an ongoing entity." Bear Creek Community Charter School, CAB No. 2003-3; Ronald Brown Charter School, CAB Docket No. 1999-1. Sustainable support is "an inherent variable based upon the size of the proposed school, the size of the community and other factors." Environmental Charter School, CAB Docket No. 1999-4. Sustainable support is

The proper community to determine sustainable support is the school district in which the charter school is to be located. *Legacy Charter School*, CAB Docket No. 2000-14. The support documents, including petitions, must 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 Docket No. 2000-16.

In addition to the aforementioned concepts, charter schools are mandated to develop and implement strategies for meaningful parent and community involvement. 24 P.S. § 17-1715-A(2). Section 1719-A(8) requires applications to contain, *inter alia*: “[i]nformation on the manner in which community groups will be involved in the charter school planning process.” 24 P.S. § 17-1719-A(8). Whether or not an applicant has developed any community partnerships as of the time of the application is a valid consideration relating to its community support. *Duquesne Charter School Founding Group d/b/a/ Duquesne Charter School v. Duquesne City School District*, CAB Docket No. 2013-01, at 8, n.1 (hereinafter referenced as “*Duquesne Charter School*”).

The community support documents submitted for Summit do not meet the requirements of the CSL, as interpreted by CAB and the appellate courts. Pursuant to CAB precedent and the CSL, the School Board has reviewed the record looking for evidence of support from the community where the Charter School would be located – the Pocono Mountain School District community and Pocono Mountain School District residents.
The Applicant intends to enroll 360 students in grades K-11 in the first year of operation. Missing from the Application was any pre-enrollment information signed or submitted by parents of interested students indicating a desire to enroll in the Charter School. While the Applicant submitted a spreadsheet purportedly reflecting pre-enrollments, no information was provided to indicate what parents or guardians provided to the Applicant to have their names included on the spreadsheet.

Reviewing the information that has been provided, even if the spreadsheet suggesting 225 parents and guardians showed a desire to enroll their child in the Charter School would be deemed reliable, only 91 School District resident students were identified as purported pre-enrollees. Most of the supporters of the Applicant who provided public comment are part of the founding coalition of individuals and parents of SSP students, all of whom appear on the spreadsheet. Fourteen letters of support are included in the Application from School District residents or businesses.

Reviewing all of the submitted evidence of community support in the aggregate, the Applicant has not met its burden of showing sustainable support for the proposed school from Pocono Mountain School District residents, officials or businesses. The School Board finds that there is insufficient support for the Charter School’s intended enrollment of 360 students in 2020-2021, growing significantly in subsequent years, and for the overall charter school plan set forth in the Application as required by Section 1717-A(e)(2)(i) of the CSL.

B. The Applicant Has Not Established That It Has Properly Planned To Provide Comprehensive Learning Experiences To Students Pursuant To The Adopted Charter.

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.

Curriculum and Educational Program

The CSL requires a charter application to include information regarding the “mission and education goals of the charter school, the curriculum to be offered and the method of assessing whether students are meeting educational goals.” 24 P.S. §17-1719-A(5). The proposed curriculum for a charter school must, inter alia, show how the applicant will offer comprehensive planned instruction to fulfill Chapter 4 requirements, how the particular subject areas will meet Pennsylvania standards, and how the applicant will deliver special education services to students with disabilities. Bear Creek Community Charter School, CAB Docket No. 2003-3. This is required in order to show how the proposed charter school will offer comprehensive learning experiences to its students as required under Section 1717-A(e)(2)(ii). For the following reasons, the Applicant has not fulfilled this burden.

“The curriculum of a school, any school, is one of the most significant building blocks of the educational program at that institution. To not have the curriculum completed and fully aligned shows a lack of adequate planning.” Thomas Paine Charter School, CAB Docket No. 2009-04, at 9. Section 4.4(a) of the State Board of Education regulations, 22 Pa. Code § 4.4(a), applies to charter schools. 24 P.S. § 17-1732-A, n.8. That regulation provides as follows: “It is the policy of the Board that the local curriculum be designed by school entities to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.” 22 Pa. Code § 4.4(a). A curriculum is defined by the State Board of Education regulations as: “A series of planned instruction aligned with the academic standards in each subject area that is coordinated and articulated and implemented in a manner
designed to result in the achievement at the proficient level by all students.” 22 Pa. Code § 4.3. Planned instruction is defined as: “Instruction offered by a school entity based upon a written plan to enable students to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.” Id.

A charter school applicant’s failure to submit curricular materials that establish the planned instruction required by the State Board of Education regulations for the grade levels to be served by the applicant is a basis for denial of the application. Allentown Engineering Academy Charter School v. Allentown School District, CAB Docket No. 2014-01, at 16-18. The charter school’s curricular plan must be fully developed at the time the application is filed. Environmental Charter School at Frick Park, CAB Docket No. 2007-05, at 6-7. In addition, the complete curriculum plan must be submitted to determine if the proposed charter school could be a model for other public schools. Duquesne Charter School, CAB Docket No. 2013-01, at 9 (citing In Re: Environmental Charter School, CAB No. 1999-14, at 21). An applicant would not be a model for other public schools if the curriculum submitted was not fully developed. Duquesne Charter School, CAB Docket No. 2013-01, at 12.

To meet the definition of “curriculum” in the State Board of Education regulations, the curricular documents submitted must include the indicators of planned instruction set forth in the regulations, including resources and assessments that will be utilized in each subject area. Spartansburg Community Charter School v. Corry Area School District, CAB Docket No. 2016-02, at 33. The documents must establish a program that is fully aligned with Pennsylvania standards; if PA Core Standards for the appropriate grade levels are missing, or if the curricular documents cite to standards in use in other States or academic standards that do not exist in Pennsylvania, the curricular documents are not fully aligned. Id., at 35-37. The curricular
documents submitted must also give an idea of “how the teacher of the course is to lead the students through the course or gauge whether students understand the concepts and have attained the competencies at the heart of the course.” *Id.*, at 33. The resources and materials to be used in each course must be age-appropriate for the grades to be served by the charter school. *Id.*, at 33-35. Failure to use age-appropriate material creates barriers to learning. *Id.*, at 35.

The curricular materials submitted by an applicant must also address the nontraditional elements of the Charter School and how those elements will be integrated into the curriculum; failure to do so will render the curriculum insufficient. *In re Appeal of Community Service Leadership Development Charter School*, CAB Docket No. 2010-02, at 11 (citing *In re David P. Richardson Academy Charter School*, CAB Docket No. 2001-08). For example, where an applicant touted the use of hands-on learning outside the classroom, CAB expected to see lesson plans or instructional timelines to indicate where and how those themes and hands-on learning would be integrated into the charter school’s education programming, and found fault with the applicant where the two lesson plans provided did not reflect any such hands-on learning outside the classroom. *Spartansburg Community Charter School*, supra, at 39. Further, if an applicant represents that a theme will be integrated into the curriculum, evidence of such integration in the overall curriculum must be apparent from the curriculum maps or documents submitted. *Id.*, at 39-40.

As articulated in more detail in the factual findings and in the Administrative Report, the academic programming materials attached to the Application do not constitute a complete curriculum or planned instruction for grades K-11 in year 1. The documents submitted do not provide for a system of planned instruction that aligns with the Pennsylvania standards for the subjects or the grade levels to be served. No curricular materials are submitted for physical
education, music, a second world language, family and consumer science, guidance, or the education of EL students.

The Applicant has not identified when a complete standards-aligned curriculum would be developed for grades K-11, or who would develop it. None of the individuals associated with SSP have the credentials to oversee the development of curriculum in Pennsylvania. Given what has been submitted to date, this lack of qualification and expertise is a concern.

The nontraditional elements of the Charter School’s programming – School Meeting, restorative practices, Justice Committee, movement-rich environment, etc. – are vague and ill-defined given the significant gamut of ages, grades and sheer enrollment numbers to be served by the Charter School in year 1 and at scale. Very few details were provided as to how these elements of the mission and program would be implemented.

Specific instructional information about proposed schedules at each grade level and the amount of instructional time students would receive in the various subject areas is not provided. Incomplete planning is evident in the Applicant’s uncertainty over what portion of the MicroSociety program would be implemented. MicroSociety is a school-wide purchased curriculum and structure that requires significant training for implementation with fidelity.

Possibly due to the inexperience working in the public school system, the Applicant team did not articulate familiarity with the State assessment system, particularly the Keystone Exam requirements. No goals are evident in the Application aligned with the Keystone Exams and the other accountability pieces in place under the Future Ready PA Index.

From a special education programming standpoint, few details are provided about the Applicant’s specific plans to serve special education students in a K-12 environment, the staffing that would be necessary to do so given the grade structure in place and potential needs of the
students, and what programs are tentatively to be offered by the Charter School in anticipation of
the student body needs. No details could be provided about the MTSS system that would be
utilized or the positive behavioral system that is vaguely identified in the Application.

An additional material problem with the Application is the lack of information about
graduation requirements for this Charter School, which would be necessary for all students in
grades 9-12 and particularly for those students who would be enrolled in Year 1 in grades 9-11.
The Application does not disclose how many credits a student would need to graduate from the
Charter School and in what subjects; what the credit allotments are for any course; or what
electives students can take. In addition to this important information for stakeholders being
omitted, the Applicant does not address how it would provide credit recovery opportunities for its
newly enrolled transfer students in upper grades if the number of credits required to graduate
differed from other area school district requirements. Given that 10\textsuperscript{th} and 11\textsuperscript{th} graders will be
enrolled in year 1, the School Board would have expected the Applicant to specifically address
how such students would be accommodated, or credit requirements adjusted, so that transfer
students could have the opportunity to graduate in four years.

The curricular documents and information submitted do not provide evidence that the
Applicant is prepared to offer comprehensive planned instruction to fulfill the mandates of Chapter
4. See Bear Creek Community Charter School, CAB Docket No. 2003-3; Environmental Charter

**English Learners**

Charter schools are required to “provide a program for each student whose dominate
language is not English for the purpose of facilitating the student’s achievement of English
proficiency and the academic standard under § 4.12 (relating to academic standards). Programs
under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction." 22 Pa. Code § 4.26. On July 1, 2017, the Pennsylvania Department of Education reviewed and re-issued its Basic Education Circular ("BEC") on Educating English Learners (ELs) pursuant to 22 Pa. Code § 4.26. The BEC on Educating English Learners states in pertinent part:

The purpose of this circular is to provide local education agencies (LEAS) with the requirements and interpretations of the legal mandates governing the education of students who are English learners (ELs). The information included should be used in designing, staffing, and evaluating effective programs for ELs. These mandates and interpretations are based on the Pennsylvania Regulations, Chapters 4 and 11; and on federal law, including Title VI of the Civil Rights Act, the Equal Educational Opportunity Act (EEOA), the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), and regulations and case law under those statutes.

BEC at 1.

ESSA was signed into law on December 10, 2015, and replaced NCLB. The ESSA requirements pertaining to ELs took effect on July 1, 2017.

Even though the School District and other area school districts have an EL population of between 2-3% of enrollment, the Application does not address programming for EL students at all. There is no evidence that any of the curricular documents have considered the English Language Development Standards ("ELDS"), the resources or program materials that would be used to teach the ELDS, or the explicit instruction that ELs would receive to ensure progress in their English proficiency. No Language Instructional Education Plan has been submitted, as discussed in more detail in the Administration’s Report.

These concerns are additional deficiencies in the Applicant’s planning because the issues evidence a lack of preparedness necessary to provide required English language instruction to ELs.
Governance Structure

A charter school must be organized and operated as a non-profit entity. 24 P.S. § 17-1703-A. To determine whether a charter school will be operated in accordance with the CSL, the appellate courts in Pennsylvania require a review of several different types of documents: the articles of incorporation filed by the applicant; the proposed Bylaws of the school; and the management agreement between the applicant and any proposed management company (if any). *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400, 407-408 (Pa.Cmwlth. 2003).

Here, the Applicant did not submit AOI in its Application or supplemental submissions. There is no indication that a corporation called Summit Charter School, Inc., exists. No excuse was provided for why the AOI, a required submission for an application, was not provided.

The failure to submit the AOI reflects a lack of proper planning or lack of understanding of legal requirements governing the Charter School's proposed operations and forms an additional basis for the denial of the Application.

Financial Planning and Staffing

A charter school’s financial planning is relevant to the determination whether the proposed school has the capacity to provide comprehensive learning experiences pursuant to Section 1717-A(2)(ii) is the school’s financial planning. *Bear Creek Community Charter School*, CAB Docket No. 2003-3. A charter school is required to 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. *Thomas Paine Charter School*, CAB Docket No. 2009-04, at 12; *Voyager Charter School*, CAB Docket No. 2005-09. The budget must be complete, and much clearly identify a plan to address start-up expenses and the source of

The factual findings detail various errors or omissions found in the budget submitted by the Applicant in terms of staffing vagueness, various material expenditure omissions, and incorrect revenue assumptions. No start-up budget is supplied to reflect any expenditures that would be incurred by the Charter School to set-up operations prior to revenue flowing from local school districts. Based upon these errors and omissions, the Applicant will not have sufficient funds available to operate and implement its programming.

One important cost driver of the Applicant’s proposed financial plan is the provision of health care benefits to its employees. The CSL states as follows: “Every employee of a charter school shall be provided the same health care benefits as the employee would be provided if he or she were an employee of the local district.” 24 P.S. § 17-1724-A(d). In order to determine if the financial plan is viable and consistent with the requirements of the CSL for purposes of the Applicant’s planning, the Applicant must describe its health insurance coverage plans, and the School District must determine if those plans are consistent with the CSL’s “same health care benefits” provision. According to CAB, such a determination turns on the meaning of “health care benefits”, meaning what type of items or services are covered by the plan. Gillingham Charter School v. Pottsville Area School District, CAB Docket No. 2016-11, at 68. What another charter school in another part of the State might offer its employees in the way of health care benefits is not relevant to the determination of what health care benefits Summit will offer, because the
determining factor under the CSL is what health care benefits the School District offers to its employees.

Due to the lack of information about potential plans and the proposed health care coverage, the proposal cannot be properly evaluated for coverage comparability to School District plans. The failure to provide health care coverage information precludes the School Board from evaluating whether the expenditures budgeted for employee health insurance are appropriate or sufficient in order to provide a comparable plan under Section 1724-A(d), which is another deficiency in the Applicant's financial planning.

The Applicant also indicated that it did not intend to have its employees participate in the Public School Employees Retirement System ("PSERS"), but rather in an alternative retirement plan. The CSL states as follows: "All employees of a charter school shall be enrolled in the Public School Employees' Retirement System in the same manner as set forth in 24 Pa.C.S. § 8301(a) (relating to mandatory and optional membership) unless at the time of the application for the charter school the sponsoring district or the board of trustees of the charter school has a retirement program which covers the employees . . ." 24 P.S. § 17-1724-A(c) (italics added). Contrary to this provision, no alternative retirement plan is currently in existence. In addition, no proposed plan documents were provided to evaluate. The Applicant references a 403(b) Plan without specifics of the plan details. Until such time as some alternative retirement plan is approved for the Charter School, the Charter School must participate in PSERS, and has not properly budgeted to do so.

For these reasons, the School Board continues to find that the budgetary planning by the Applicant is deficient.
C. The Application Does Not Provide or 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. The School Board finds that the Applicant has failed to properly include or address several items of information as required in this section of the CSL.

1. **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.**

As noted above, the Applicant did not submit evidence that the Charter School has been incorporated. Nor is there any explanation provided for what a member of the Charter Board would be required or need to have to sign a Confidentiality and Nondisclosure Agreement ("Confidentiality Agreement"). A Confidentiality Agreement is not a requirement of the CSL or any other law governing public charter schools.

2. **Section 1719-A(5) – Mission And Goals Of The Charter School, The Curriculum To Be Offered And The Methods Of Assessing Whether Students Are Meeting Educational Goals.**

The School Board fully discussed its conclusions about the Charter School's proposed curriculum and programming above and reiterates that the deficiencies fail to establish that the Charter School will provide comprehensive learning experiences to enrolled students or meet the requirements of Chapter 4.

3. **Section 1719-A(6) – The Admission Policy And Criteria For Evaluating The Admission Of Students Which Shall Comply With The Requirements Of Section 1723-A.**

As discussed in the factual findings, the Application contains inconsistent statements regarding how the Charter School would go about admitting and enrolling students. Some of the practices outlined in the documents reflect violations of the legal requirements for enrollment in a public school. For example, some of the documents identified as being required for enrollment
are the type of documents on which enrollment cannot be premised, namely the submission of various forms described on SCS 124. On the other hand, enrollment in a charter school can be premised on the submission of certain information. 24 P.S. § 13-1304-A(a); 22 Pa. Code § 11.11(b); 28 Pa. Code Ch. 23 (relating to school immunizations). PDE’s Basic Education Circular ("BEC") entitled “Enrollment of Students” requires five categories of information to be submitted “whenever a child of school age is presented for enrollment by a parent(s), school district resident, or any other person having charge or care of the child”. The five categories of information are: (1) proof of the child’s age; (2) immunizations required by law; (3) proof of residency; (4) parent registration statement; and (5) home language survey. The Charter School’s submission does not reflect these requirements.

Section 1723-A of the CSL also does not permit an enrollment preference to be provided to grandchildren of founders of the charter school. The only preference allowances provided for in the CSL are: (1) children of parents who have actively participated in the development of the charter school; (2) siblings of students presently enrolled in the charter school; and (3) students who reside in the School District. 24 P.S. § 17-1723-A(a). The Application materials in their current form violate this CSL requirement.

Further, the bilateral fit language in the Application is wholly inappropriate for use by a K-12 public school that must accept all students who seek enrollment as long as space is available, even if the Charter School does not think a student, or the student’s needs, would be a good fit for the Charter School’s model.

4. **Section 1719-A(7) – Procedures Which Will Be Used Regarding The Suspension And Expulsion Of Pupils.**

The Student Handbook does not articulate how the restorative practices model in use at the Charter School would be woven into the disciplinary structure for improper behavior. No grounds
for suspension are provided in the Handbook. While several grounds for expulsion are mentioned, legally mandated grounds (such as for weapons offenses) are not discussed or disclosed.

Under the Handbook, a student could be expelled based upon a violation of a policy or procedure in the Handbook by the student's parent or guardian. A student cannot be expelled from a public school because his/her parent or guardian has engaged in improper behavior.

5. **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, there are deficiencies in the Applicant’s financial planning.

6. **Section 1719-A(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.**

The Applicant does not have anything from the owner of the facility, NCC, that indicates NCC has agreed to sell or lease the facility to the Charter School or to the Charter School’s foundation. Assuming NCC would even sell the property to the Applicant or to the foundation, plans have not been determined as to which entity would own the building or who would finance the purchase or required renovations.

7. **Section 1719-A(13) -- The Professional Development Plan for the Faculty.**

No Professional Development Plan was provided. The Applicant’s professional development description in the Application is insufficient. No detail was provided about who would provide such professional development, the specifics of the topics to be provided or their priority, the resources that would be used or the knowledge and skills that would be addressed in order to implement curricular programs that meet the Pennsylvania standards set forth in Chapter 4 of the State Board of Education regulations and also assist the Charter School in the implementation of programming outlined in the application. This is particularly important in the first year of operation when all of the staff will be new and many, if not all, of the staff will not
have experience implementing the unique curricular and educational focus of the school. Mandated trainings required of charter schools under Pennsylvania law, such as mandated reporter and suicide prevention, are not addressed in the Application. See 24 P.S. §§ 12-1205.6, 15-1526.

The Application also fails to address a teacher induction plan or what opportunities would be provided to new teachers through the teacher induction program. 22 Pa. Code § 49.16. These are all deficiencies in the Application. See e.g., New Castle Arts Academy Charter School v. New Castle Area School District, CAB Docket No. 2014-14 (finding sufficient a professional development plan that contained topics, projects/outcomes, responsible parties and standards tied to the National Staff Development Council’s standards for staff development).

8. Section 1719-A(15) And (16) — Criminal History Records And Official Clearance Statements For All Individuals Who Will Have Direct Contact With Students.

The Applicant here has an existing private school. According to statements in the record, all of the current faculty will transition to employment with the Charter School, should a charter be granted. Two of the requirements in Section 1719-A of the CSL for inclusion in the Application are the provision of criminal history records and official clearance statements for all individuals who would have direct contact with students at the Charter School. In some application scenarios, those staff members are not yet selected or known at the time of application. In this case, however, staff members are known and are actively working at SSP. No clearances or child abuse statements were included in the Application, which is a deficiency.

The Applicant also referenced employees working for the provisional period of 90 days while waiting for their clearances to arrive, which the Administration raised as a concern. (SCS 2327). The only way that a Charter School can structure such provisional employment is if the employee would not have direct contact with students or would not work alone with students.
129-130). However, the Charter School did not provide any plans for how it could ensure that provisional employees (teachers, support personnel, administrators, etc.) would not be alone with students when hired for their respective positions.


No information was supplied to identify how the charter school would provide appropriate liability insurance, workers compensation or other coverage, such as quotes from brokers or other documents indicating the potential costs for such coverage, including health care coverage, or whether those costs correlate with the expenditures included in the budget documents. Also, no plan documents for health care coverage were provided to evaluate whether the anticipated coverage meet the requirements of 24 P.S. § 17-1724-A(d).

**D. The Record Does Not Establish That The Charter School Will 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 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 deficiencies in the Application identified above, the School Board concludes that the proposed Charter School does not have the capacity to serve as a model for other public schools.

[REMAINDER OF THE PAGE IS LEFT INTENTIONALLY BLANK.]
ORDER

For the reasons set forth above, the Application to create the Summit Charter School is hereby DENIED.

Rusty Johnson
Board President