

**IN THE COURT OF COMMON PLEAS OF PHILADLPHIA COUNTY,  
PENNSYLVANIA**

D.W., a minor, by and through her  
Guardian, GEORGETTE HAND,

Plaintiff,

v.

MATHEMATICS, CIVICS AND  
SCIENCES CHARTER SCHOOL OF  
PHILADELPHIA INC.,  
Defendant.

No. 19-1002028

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**PETITION FOR PRELIMINARY INJUNCTION**

Plaintiff D.W., by and through her parent and guardian, Georgette Hand (“G.H.”), petitions this Court under Pennsylvania Rule of Civil Procedure 1531 for an Order enjoining Mathematics, Civics and Sciences Charter School of Philadelphia Inc. (“Charter School”), from violating 24 P.S. § 17-1723-A, 22 Pa. Code § 11.11(b) and the Pennsylvania Constitution, and directing the Charter School to enroll D.W. immediately.

In support of this Petition, D.W. states:

1. Plaintiff D.W. is a 6-year-old child in first grade. D.W. and G.H.’s permanent address is 7611 Gilbert Street, Philadelphia, PA 19150.
2. Defendant Mathematics, Civics and Sciences Charter School of Philadelphia Inc. (“Charter School”) is a charter school, as defined by 24 P.S. § 17-1703-A, and a political subdivision, as defined by Pa. R.C.P. No. 76.

3. Contemporaneously with this Petition, D.W. files a Complaint for declaratory and injunctive relief, which is incorporated herein. The Complaint is attached as Exhibit A to this Petition.
4. The Charter School has illegally denied D.W. enrollment on the basis of her status as a child with a disability in violation of 24 P.S. § 17-1715-A(3) and 24 P.A. § 17-1723-A(b)(1) (“Charter School Law”), 22 Pa. Code § 11.11(b), and Section 26 of the Pennsylvania Constitution, Pa. Const. Article 1, § 26.
5. D.W. is a legal resident of Philadelphia County within Philadelphia, Pennsylvania.
6. D.W. is diagnosed with Attention Deficit Hyperactivity Disorder (“ADHD”) and has been determined to be a “child with a disability” as defined by 22 Pa. Code § 711.1. She has an Individualized Education Program (“IEP”) that outlines the educational services she needs. 22 Pa. Code § 711.41.
7. The Charter School Law expressly prohibits discrimination on the basis of disability in “admissions, hiring or operation” and “admissions policies or practices.” 24 Pa. C.S.A. §§ 17-1715-A(3), 17-1723-A(b)(1).
8. Pennsylvania education regulations require the Charter School to enroll D.W. within five business days of D.W.’s submission of certain enrollment materials. 22 Pa. Code § 11.11(b).
9. Section 26 of the Pennsylvania Constitution prohibits discrimination by any political subdivision of the Commonwealth and bars such authorities from denying to any person the enjoyment of any civil right or discriminating against any person in the exercise of any civil right. Pa. Const. Art. 1, § 26.
10. On June 27, 2019, D.W.’s mother completed an application for D.W. to be considered for admission to the first grade class at the Charter School.

11. On July 10, 2019, the Charter School sent a letter communicating that D.W. was accepted as a first grader for the 2019-2020 school year.
12. The acceptance letter instructed that G.H. needed to bring the following documents for enrollment: 1) immunization records; 2) proof of age; 3) proof of residency. The letter stated that submission of D.W.'s final report card was optional. Although designated as "optional," the letter stated, "if your child is in Special Education, we *must* have a copy of the most recent Individualized Education Plan, NORA and CER" (emphasis added).
13. On July 22, 2019, G.H. submitted D.W.'s immunization records, birth certificate, electricity bill, driver's license and D.W.'s May 7, 2019 IEP. Ms. Veronica Joyner, Founder and Chief Administrative Officer of the Charter School, reviewed D.W.'s May 7, 2019 IEP and told G.H. that D.W. could not enroll in the Charter School because "she had an IEP for emotional." She also told G.H. that the Charter School did not have the class or teacher to provide the services in her IEP.
14. G.H. was prohibited from enrolling D.W. in the Charter School for the 2019-2020 school year.
15. The Charter School's refusal to allow D.W. to enroll plainly violates Pennsylvania law. An injunction requiring the Charter School to immediately enroll D.W. is necessary to prevent immediate and irreparable harm to D.W. that cannot be adequately remedied by damages. The Charter School's denial of enrollment threatens D.W.'s educational future and social development, particularly in light of the Charter School's unique educational programming and services aimed at preparing academically at-risk students for post-secondary opportunities. Denying D.W.'s enrollment to the Charter School has denied her access to the academic instruction, extracurricular activities and support services

available at the Charter School. In addition, D.W. has been stigmatized, as she is aware that she was excluded from the Charter School because she is a child with disabilities.

16. Greater injury will result from refusing a preliminary injunction than from granting it.

The Charter School has offered no legally valid reason for denying D.W. enrollment, and the Charter School can suffer no “harm” by complying with the law. Allowing D.W. to remain unenrolled in the Charter School deprives her of educational opportunities and the benefits of smaller class sizes, support services, and enhanced curriculum.

17. The requested injunction, which will allow D.W. to enroll at the Charter School, will properly restore the parties to their rightful status immediately prior to the Charter School’s wrongful conduct.

18. D.W. is likely to prevail on the merits of her underlying claim. The Charter School’s refusal to enroll D.W. unambiguously violates the Charter School Law, Pennsylvania School Code, and the Pennsylvania Constitution, as explained throughout this Petition, its supporting Memorandum of Law, and D.W.’s Complaint.

19. The requested injunction is reasonably and limitedly suited to eliminate the Charter School’s offending activity. Allowing D.W. to enroll will relieve D.W. of the discrimination that she faces by not being allowed to attend the Charter School.

20. The requested injunction will not adversely affect the public interest. On the contrary, granting the injunction will fulfill the public interest goals stated in the Charter School Law itself. Further, an injunction is the only way to ensure that D.W. receives an education consistent with Pennsylvania’s legal requirements and public policy of expanding learning opportunities for children through public charter schools.

WHEREFORE, for these reasons set forth in the accompanying Complaint and Memorandum of Law, which are incorporated herein, D.W. respectfully requests the following relief:

- (a) That a preliminary injunction be issued directing the Charter School to immediately enroll D.W.; and
- (b) That the Court grant any other relief as it may deem just and proper.

DATED: October 21, 2019

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on this 21<sup>st</sup> day of October 2019, a true and correct copy of the foregoing **Petition for Preliminary Injunction, Memorandum of Law in Support of Petition for Injunctive Relief, and Proposed Order** was filed electronically using the First Judicial ESF System and served on the below listed individual by first-class mail and email.

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SIGNED:

/s/ Margaret M. Wakelin  
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DATED: October 21, 2019