



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION

January 15, 2015

Mr. William Bailey  
The William Bailey Cyber Charter School  
5630 Belmar Terrace  
Philadelphia, PA 19143

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Bailey:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the William Bailey Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny your application. Please review the pages that follow for more information.

If you have any questions, please contact Steven Carney at (717) 214-5708 or [stevcarney@pa.gov](mailto:stevcarney@pa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Carolyn E. Dumaesq'.

Carolyn E. Dumaesq, Ed.D.  
Acting Secretary of Education

Enclosure

**The William Bailey Cyber Charter School  
2014 Cyber Charter School Application**

**Background**

Pursuant to the Charter School Law (CSL), 24 P.S. §§ 17-1701-A – 17-1751-A, the Pennsylvania Department of Education (“Department”) has the authority and responsibility to receive, review and act on applications for the establishment of a cyber charter school. A cyber charter school applicant must submit its application to the Department by October 1 of the school year preceding the school year in which the applicant proposes to commence operation. After submission of an application, the Department is required to hold at least one public hearing and grant or deny the application within 120 days of its receipt.

The William Bailey Cyber Charter School (William Bailey) timely submitted an application to establish a cyber charter school. The Department provided 30 days’ notice of a public hearing held on November 3, 2014.

**Decision**

Based on a thorough review of the written application as well as questions and responses recorded at the November 3, 2014 public hearing, the Department denies William Bailey’s application. Deficiencies in the application were identified in the following areas:

- Application Requirements
- Governance
- Sustainable Support
- Use of Physical Facilities
- Technology
- Curriculum
- Special Education
- English as a Second Language
- Assessment and Accountability/School Improvement
- Finance
- Professional Development/Teacher Induction

**I. The applicant failed to comply with application requirements.**

A cyber charter applicant must demonstrate its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students. A cyber charter applicant must also demonstrate the programs outlined in its application will enable students to meet the academic standards under 22 Pa. Code Chapter 4 or subsequent regulations.

**(a) *The applicant failed to provide sufficient information regarding the proposed governance of the charter school.***

A cyber charter applicant must include 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, in its application. William Bailey included bylaws for The William Bailey Rec Center, Inc., not for the proposed cyber charter school. Furthermore, the bylaws that were included with the application do not explain the manner in which the initial board members are appointed or elected and the minimum number of board members identified in the bylaws is inconsistent with the minimum number of board members identified in the cyber charter application. Section II below provides more details regarding deficiencies pertaining to the proper governance of the proposed cyber charter school.

**(b) *The applicant failed to provide sufficient information regarding cooperative learning opportunities, field trips and study sessions.***

A cyber charter applicant is required to provide a specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.

William Bailey indicated that it will provide such opportunities and programs, but failed to explain how the school intends to do so on a statewide basis.

**(c) *The applicant failed to provide sufficient information regarding standardized achievement tests.***

A cyber charter applicant must provide a description of commercially prepared standardized achievement tests that will be used by the school in addition to the Pennsylvania System of School Assessment (PSSA) test, including the grade levels that will be tested and how the data collected from the tests will be used to improve instruction.

Although William Bailey listed several standardized assessments it will use, William Bailey failed to include any information regarding how the data collected from the assessments will be analyzed, used for purposes of meeting federal and state objectives for academic accountability, and used to improve instruction.

**(d) *The applicant failed to include sufficient information regarding attendance, truancy and withdrawal.***

A cyber charter applicant must include policies regarding truancy, absences and withdrawal of students, including the manner in which the school will monitor attendance to ensure compliance with attendance laws and regulations. William Bailey included attendance, truancy and withdrawal policies in its application and stated that a student who is consistently truant may be withdrawn from the cyber charter school and referred back to the student's school district of residence. However, William Bailey does not explain what "consistently truant" means or the circumstances under which a student may be withdrawn or an explanation of due process procedures for expulsion of a student.

***(e) The applicant failed to demonstrate evidence of insurability.***

A cyber charter applicant is required to submit a description of how it will provide adequate liability and other appropriate insurance for the proposed school, its employees and the board of trustees. Evidence of insurability must be submitted with the application.

William Bailey stated that it would provide health, general liability, property, and director and officer's liability coverage in accordance with statutory requirements through Castle Rock Insurance Agency. William Bailey also stated that it would match the health benefits offered by the Delaware County School District in accordance with statutory requirements, but did not identify the specific school district in Delaware County to which it was referring. However, William Bailey failed to include estimated coverage levels and insurance quotations, letters of intent to obtain insurance or other evidence that the amount budgeted for insurance is adequate or that William Bailey will be able to obtain the required insurance coverage. During the hearing, a Charter Choices representative admitted that no quotes had been solicited from Castle Rock Insurance Agency and that insurance estimates provided in the budget were based on Charter Choices' industry experience. In addition, a Charter Choices representative admitted that he did not have knowledge of Delaware County School District's healthcare costs and that quotes for healthcare plans had not been obtained. Nevertheless, the Charter Choices representative testified that he believed the healthcare estimates provided in the budget were adequate. The Charter Choices' representative characterized his assumptions as based upon Charter Choices' business experience, but did not provide any additional information to support the assumptions.

***(f) The applicant failed to provide information concerning the ownership of all facilities and offices of its proposed school and any lease arrangements.***

A cyber charter applicant must provide the addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements. An executed lease is not required, but information about proposed facilities, such as letters of intent, documentation concerning the ownership of potential properties or any proposed lease arrangements associated with proposed properties, are required.

William Bailey indicated it would choose an administrative office located in Delaware County and included documentation in its application that evidenced it selected Gregg D'Ascanio of Blackmore Realty Group as the sole and exclusive representative for the potential identification of William Bailey's administrative office. However, in its application, William Bailey stated a physical facility would be determined pending approval of its cyber charter application and noted on the application fact sheet that it does not have a facility suitable for the cyber charter school's administrative offices. In addition, a Charter Choices representative admitted that William Bailey had yet to select a location. Thus, William Bailey failed to identify, as required, any proposed facility for its administrative offices and therefore, failed to include, any information about proposed facilities, such as letters of intent, documentation concerning the ownership of potential properties, or any proposed lease arrangements associated with the proposed properties.

***(g) The applicant failed to provide sufficient information regarding financial and purchasing procedures.***

A cyber charter applicant is required to describe the implementation of required investment and bank deposit policies in its application. A cyber charter applicant must include in its application the provisions for auditing the school and a purchasing procedure that addresses a competitive way to purchase goods and services.

William Bailey failed to describe implementation of required investment and bank deposit policies and procedures. Although William Bailey referred to its budget, its budget does not address implementation of these policies and procedures. During the hearing, William Bailey representatives admitted that required policies and procedures were not submitted with its application and that its school board would adopt policies for internal controls, investments, and other fiscal items once developed.

***(h) The applicant failed to identify provisions to comply with state reporting requirements.***

A cyber charter school applicant is required to report student data to the Department using the Pennsylvania Information Management System (PIMS).

William Bailey failed to identify a specific system that it will use to securely house student-specific information and records. William Bailey also failed to identify the necessary support and planning to comply with this requirement, including knowledge of state reporting requirements and the individual who will be responsible for meeting state reporting requirements.

***(i) The applicant failed to provide sufficient information concerning the curriculum to be offered and how it meets the requirements of 22 Pa. Code Chapter 4.***

A cyber charter applicant must demonstrate its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students. A cyber charter applicant must demonstrate the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Chapter 4. A cyber charter applicant is required to include with its application the curriculum to be offered and how it meets the requirements of 22 Pa. Code Chapter 4. Planned instruction for each course offering must be aligned to the following: (1) learning objectives and outcomes, (2) eligible content and assessment anchors that will be measured on the Pennsylvania System of School Assessment (PSSA) and Keystone assessments, and (3) Pennsylvania academic standards. A cyber charter applicant must also explain the research basis for the school's educational program, including how the planned instruction and assessments will enhance student performance.

The Pennsylvania Independent Regulatory Review Commission approved final-form regulations submitted by the Pennsylvania State Board of Education that revise certain provisions of 22 Pa. Code Chapter 4. Among other changes affecting cyber charter schools and other school entities,

the revisions to 22 Pa. Code Chapter 4 implement the Pennsylvania Core Standards. The revisions to 22 Pa. Code Chapter 4 were published and became effective at the beginning of the 2014-2015 school year. Beginning in the 2014-2015 school year, state assessment examinations, including the PSSA and Keystone Exams, test student proficiency based upon the Pennsylvania Core Standards included in the revised 22 Pa. Code Chapter 4 requirements. Accordingly, at a minimum, a cyber charter applicant must submit evidence that its curriculum and planned instruction to be offered meet the requirements of 22 Pa. Code Chapter 4 in its revised form, including the Pennsylvania Core Standards and the content and assessment anchors to be measured on the PSSA and Keystone Exams, which are aligned to the Pennsylvania Core Standards.

William Bailey failed to provide evidence of planned instruction, including course descriptions, course objectives, course materials and activities, and estimated instructional time. Although William Bailey provided a curriculum, it was aligned to the New Jersey State Standards. There was no evidence that its curriculum was aligned to learning objectives and outcomes, eligible content and assessment anchors that will be measured on PSSAs and Keystone Exams, and Pennsylvania academic standards.

***(j) The applicant failed to describe the method of delivery for the educational program.***

A cyber charter school applicant must describe how the educational program will be delivered, including the amount of on-line time required for elementary and secondary students and the manner in which teachers will deliver instruction, assess academic progress, and communicate with students to provide assistance.

William Bailey explained that students will be required to be on-line for six hours each day, but failed to explain the amount of off-line time that will be required of students. Although William Bailey identified various platforms, including Black Board, Pearson, and McGraw Hill, William Bailey failed to identify whether instruction would be delivered synchronously and/or asynchronously and under what circumstances.

***(k) The applicant failed to provide appropriate information concerning the applicant's retirement system.***

Charter school employees shall be enrolled in the Public School Employee's Retirement System unless the board of trustees of the charter school has a retirement program that covers the employees or the employee is currently enrolled in another retirement program at the time of the charter school application.

Even though William Bailey should enroll its employees in PSERS since it indicated that it did not have an existing retirement system in its application, William Bailey indicated that it plans to establish a relationship with a 403(b) provider to provide an alternative retirement plan. However, William Bailey failed to provide any information about proposed 403(b) retirement plans, such as letters of intent or documentation concerning potential plans. William Bailey budgeted for a five percent employer expense associated with the 403(b) retirement plan. Without information about a proposed 403(b) retirement plan, the Department is unable to determine whether William Bailey adequately budgeted for this expense.

***(I) The applicant failed to provide an adequate understanding of the Family Educational Rights and Privacy Act (FERPA).***

The purpose of FERPA is to protect the privacy of students' education records and afford parents and eligible students (students who are 18 years of age or older or attend an institution of postsecondary education) certain rights to inspect and review education records, to seek to amend these records, and to consent to the disclosure of personally identifiable information from education records.

Some information provided by William Bailey in its application evidences a minimal understanding of FERPA's requirement to maintain education records in secure locations and protect unauthorized personnel from access. However, William Bailey did not provide any other indication that it fully understands its obligations under FERPA, such as the need to provide an annual notice to parents and eligible students to inform them of their rights, as well as the procedures for inspecting records and consenting to disclosures of personally identifiable information. Furthermore, in the Parent/Student Handbook submitted with its application, William Bailey provides a "Waiver of Family Educational Rights and Privacy Act of 1974." This waiver is to be signed by a student and waives all provisions of FERPA and states that revocation of the waiver may endanger the students' ability to remain enrolled in William Bailey.

Since William Bailey proposes to begin operations with grades K-3, there would be no students enrolled in William Bailey who are 18 years of age or older or enrolled in an institution of postsecondary education. Therefore, a student enrolled in William Bailey would not have the authority to waive any rights under FERPA. In addition, this would not be an appropriate waiver for a parent or an eligible student because it waives all rights under FERPA and, in essence, threatens that a student may be disenrolled from William Bailey if the waiver is revoked. This waiver form is not appropriate and provides a disturbing indication that William Bailey does not fully understand the purpose of, and its obligations under, FERPA.

**II. The applicant failed to submit sufficient evidence of proper governance of the school and of the necessary support and planning to provide a comprehensive learning experience to students.**

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students as an independent public school operated through a nonprofit entity with an established and effective board of trustees. A cyber charter applicant must also demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A.

***(a) The applicant failed to provide sufficient evidence of effective governance by an independent board of trustees.***

A cyber charter school is an independent public school established and operated under a charter issued by the Department. A cyber charter school must be organized as a public, nonprofit corporation.

A cyber charter applicant must provide information to identify the cyber charter applicant, the name of the proposed school, which must include the words "charter school" and the proposed governance structure. This must include governing documents such as the articles of incorporation filed with the Pennsylvania Department of State, bylaws, and the proposed governing body or board of trustees.

The cyber charter application identifies the name of the proposed cyber charter school as the William Bailey Cyber Charter School. Although William Bailey provided documents purporting to be its Articles of Incorporation (Articles), the Articles are for The William Bailey Revitalization Empowerment Community Center, Inc. William Bailey did not provide Articles for the William Bailey Cyber Charter School, which is the proposed cyber charter school that must be an independent public school organized as a public, nonprofit corporation. Without fully executed Articles for the proposed cyber charter school that have been filed with the Pennsylvania Department of State, William Bailey has not provided the required evidence that the cyber charter school will be an independent public school organized as a public, nonprofit corporation.

In fact, the bylaws submitted with the cyber charter application evidence that the proposed cyber charter school would not be an independent public school organized as a public, nonprofit corporation. The bylaws submitted with the application are for The William Bailey Rec Center, Inc., and state that the "name of [the] cyber charter school shall be The William Bailey Cyber Charter School under parent organization The William Bailey Rec Center, Inc." This clearly evidences that the proposed cyber charter school would be a subsidiary of another corporation, which is not permitted.

Therefore, not only has William Bailey failed to provide fully executed and filed Articles for the proposed cyber charter school, the bylaws it provided are for another corporation that evidences that the proposed cyber charter school would not be an independent nonprofit corporation. Since William Bailey failed to provide proper Articles and Bylaws for the proposed cyber charter school, the Department is not obligated to identify any deficiencies in the submitted Articles or Bylaws.

Notwithstanding that William Bailey submitted bylaws of another corporation and the Department is not obligated to identify deficiencies since they are not bylaws of the proposed cyber charter school, a cursory review of the bylaws shows that there are items in the submitted bylaws that would constitute deficiencies. Both the Articles and Bylaws provide for distribution of assets upon dissolution, as the board of directors shall, after paying or making provision for the payment of all corporate liabilities and after provision is made for the disposition of any property committed to charitable purposes, transfer and convey the remaining assets to another charitable organization consistent with William Bailey's charitable mission. However, at the time of dissolution, any remaining assets of a cyber charter school must be given to the Intermediate Unit where the cyber charter school's administrative office is located for distribution to school districts that had students enrolled.

**III. The applicant failed to provide demonstrated, sustainable support for the cyber charter school plan and the necessary support and planning to provide a comprehensive learning experience to students.**

A cyber charter applicant must submit evidence that it has the demonstrated, sustainable support for the cyber charter school plan and the necessary support and planning to provide a comprehensive learning experience to students. “[S]ustainable support means support sufficient to sustain and maintain the proposed charter school as an on-going entity.” *In Re: Ronald H. Brown Charter School*, CAB No. 1999-1, p. 18. The indicia of support are to be measured in the aggregate rather than by individual categories. *Id.* The Department looks for letters or other indications of support from teachers, parents or guardians and students submitted with the application.

Although in its application William Bailey refers to a petition and a survey to evidence support for the proposed cyber charter school, William Bailey failed to provide any letters, petitions or other documents to demonstrate sustainable support for the cyber charter school plan.

**IV. The applicant failed to provide an explanation of its use of physical facilities.**

On July 11, 2013, the Department issued a Basic Education Circular (BEC) entitled “Cyber Charter School Operations and Proper Use of Physical Facilities” (Cyber Charter School Physical Facilities BEC). As explained in more detail in the Cyber Charter School Facilities BEC, cyber charter schools must be able to function and provide all curriculum and instruction to all of its students without the need for students to attend any physical facility designated by the cyber charter school. A cyber charter school may only use a physical facility as an administrative office or as a resource center for providing no more than supplemental services to students and shall provide equitable access to such services for all students enrolled in the school. The cyber charter school must also be able to demonstrate the ability to enroll students from across the state and provide all services to those students in a materially consistent way, regardless of where they reside.

In the Student Handbook submitted as Appendix D to its application, William Bailey sets forth rules to which students must adhere and the possible consequences for violation of these rules. One of the rules includes attendance at required classes, including attending class on time, actively participating in on-line sessions and completing follow-up activities/assessments in a timely manner. One of the possible consequences for violating this rule is “face to face learning at a learning center or other designated destination.”

Other than this reference to a learning center in the Student Handbook, William Bailey did not discuss in its application the use of learning centers and, therefore, did not provide an explanation of how or why learning centers would be used. Therefore, William Bailey did not demonstrate that it has an understanding of the proper use by a cyber charter school of physical facilities and that it has the capability, in terms of support and planning, to provide comprehensive learning experiences in a manner appropriate for a cyber charter school.

**V. The applicant failed to provide sufficient information to demonstrate compliance with technology requirements applicable to and necessarily part of the operation of a cyber charter school.**

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including in areas relating to technology requirements applicable to and necessarily part of the operation of a cyber charter school. A cyber charter applicant must also demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter school is required to provide or reimburse each student enrolled for all technology and services necessary for the on-line delivery of the school's curriculum and instruction.

**(a) *The applicant failed to define the technology and equipment standards that promote equitable access to online learning.***

In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must ensure equitable access to all digital content and online resources, and have all computers used by students meet a minimum preferred set of standards. Preferred standards are based upon the system and software requirements necessary to deliver a robust educational experience. William Bailey failed to include specific necessary minimum standards for the hardware and software that the school will distribute to students.

A cyber charter applicant must establish procedures to assess the school's equipment and infrastructure against established industry standards and identified educational needs. In addition, a cyber charter applicant must have a process by which technology is refreshed in a timely fashion to meet new standards and needs. Although William Bailey representatives testified that the school would use a three-year refresh cycle, they did not explain a process by which the school would refresh technology in a timely fashion to meet new standards and changes in the instructional program.

A cyber charter applicant that proposes to use deploying tablets or other mobile devices must demonstrate to the Department's satisfaction that such devices are compatible with all planned applications and usage and how the supplemental technology will complement the equipment being provided. During the hearing, a William Bailey representative testified that the school may use mobile devices for deployment. However, William Bailey failed to provide a deployment and integration plan to ensure interoperability and complementary device management, or a process by which the school will identify a specific technology as proving an added education value or meeting an educational need.

**(b) *The applicant failed to explain policies, procedures and software that the school will use to ensure internet safety for all students.***

In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must create and implement an Acceptable Use Policy (AUP)/Internet Safety Policy that includes requirements for compliance with the Children's Internet Protection Act (CIPA) and the Child Internet Protection Act (Act 197 of 2004). A cyber charter school must also create and implement procedures to ensure internet safety for all students and staff,

including monitoring of online activities for minors. A cyber charter school must enable protection measures, or internet filtering software, that will block or filter access to inappropriate materials.

William Bailey failed to address blocking or filtering measures in compliance with federal and state legislation.

- (c) ***The applicant failed to provide sufficient information to demonstrate preparation and education of students in the area of appropriate online behavior.***

In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must provide for the education of minors regarding appropriate online behavior. This includes education that addresses interacting with others on social networking websites and in chat rooms, as well as cyberbullying awareness and response. The curriculum must be age/grade appropriate since education must be provided to students of all ages.

Although William Bailey included a policy regarding appropriate online behavior in its application, it failed to include specific curriculum or reference instruction for minors regarding appropriate online behavior.

- (d) ***The applicant failed to provide sufficient information regarding educational delivery platforms and student information system.***

A cyber charter school is required to provide each student enrolled with all equipment necessary for the student's participation in the school, including a computer, monitor and printer. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must have a delivery platform for all course content as well as for the delivery of asynchronous and synchronous educational experiences within a virtual environment. A cyber charter school must be able to provide real-time access to student progress within a course so that teachers, administrators, and parents can use this information in developing strategies to increase student achievement.

Although William Bailey indicated that the school would use Moodle as its learning management system, William Bailey failed to identify the virtual platform that the school intends to use to support synchronous and asynchronous instruction.

A cyber charter school must be able to manage all collaborative tools, such as email, chat, and instant messaging, to ensure a safe, self-contained virtual learning environment.

Although William Bailey indicated that the school would use these collaborative tools for communication and peer tutoring, William Bailey did not address how the multiple applications would be managed in a safe, self-contained environment.

*(e) The applicant failed to provide sufficient information regarding software to support online learning.*

A cyber charter school is required to provide each student enrolled with all equipment necessary for the student's participation in the school, including a computer, monitor and printer. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must provide all software necessary for students to complete coursework, such as Microsoft Office and Adobe Illustrator, as well as maintain software updates and license agreements. A cyber charter school must ensure that the software is current, appropriate and targeted to the audience served.

William Bailey failed to identify the specific software that the school will deploy to deliver instruction while it develops its proposed game-based programs. William Bailey also failed to identify the software that would be used to accommodate special education and ESL instruction.

*(f) The applicant failed to provide information on measures to identify and deter plagiarism.*

A cyber charter school is required to have strict policies and procedures regarding plagiarism and copyright protections, including the steps that will be taken if suspected plagiarism occurs. A cyber charter school must provide technology solutions to assist instructors in the identification of potential plagiarism in student or teacher created content. In addition, a cyber charter school must provide educational opportunities regarding plagiarism in relation to electronic resources available.

In its application, William Bailey failed to identify instructional software or tools beyond communication tools and the learning management system to identify plagiarism. While William Bailey has policies in place to address plagiarism, William Bailey does not have a curriculum that addresses plagiarism and the appropriate use of educational materials.

*(g) The applicant failed to provide information regarding technological literacy.*

A cyber charter school must establish a process by which technological readiness is assessed and targeted development is provided to ensure that staff and students are prepared to use technology appropriately and effectively.

William Bailey failed to delineate a process by which technological readiness would be assessed or developed beyond resources for parents, guardians, and advocates. In other words, William Bailey failed to explain its process to assess technological readiness of students and staff.

**VI. The applicant failed to provide proof of curriculum and assessment alignment that meet the requirements of 22 Pa. Code Chapter 4.**

As previously stated in Section I (i) above, William Bailey did not include with its application a detailed curriculum or other information evidencing a curriculum that meets the requirements of 22 Pa. Code Chapter 4. In addition, William Bailey proposed to begin operating as a school for grades K-3 with additional grades to be added through grade 12 at a later date. However, even if the application were to be granted, it would only be granted for grades K-3 because William

Bailey provided curriculum only for those grades. Any further expansion of grades could only occur if William Bailey submitted an amendment request to the Department through its prescribed process and the Department approved the proposed amendment.

**VII. The applicant failed to demonstrate that it was prepared to meet the needs of students with disabilities.**

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including those with disabilities. A cyber charter school must comply with federal and state requirements applicable to educating students with disabilities. A cyber charter applicant must describe the provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs (IEP).

*(a) The applicant failed to demonstrate that it has reasonable knowledge of the requirements for providing special education programs and services.*

A cyber charter applicant must have a general understanding of the special education program design, process, service delivery and implementation. This should include the following: child find, evaluation, invitation, IEP, placement and procedural safeguards. William Bailey demonstrated a general understanding of the special education program design, as a Special Education Policy was included in its application that provided for a screening and evaluation process to determine eligibility for special education and related services, IEPs, an educational placement process, and a dispute resolution process. However, it is unclear whether William Bailey understands the process and implementation associated with each stage of a special education program in a cyber environment. William Bailey failed to include specific information regarding how each stage of the special education program would be carried out in a cyber environment and the timelines associated with each stage. In addition, although William Bailey discussed IEPs, including participants and the role of an IEP team and the general components of an IEP, William Bailey did not identify several state and federally mandated components of an IEP, such as transition services, participation in local and state assessments, and related services.

A cyber charter applicant also must demonstrate the ability to provide a free appropriate public education (FAPE) by having written policies and procedures, or a narrative that reasonably address the implementation of federal and state special education requirements. William Bailey failed to submit policies or procedures in key areas of special education to demonstrate a working knowledge of how special education operates and how William Bailey will implement these requirements within its program, including: Assistive Technology and Hearing Aids; Positive Behavior Support; Restraint Reporting Requirements; Child Find; Confidentiality; Graduation and Dropout; Discipline, Suspension and Expulsions; Least Restrictive Environment; Provision of Extended School Year (ESY); Related Services Including Psychological Counseling; Parent Training; State, Local and Alternative Assessments; Enrollment; Surrogate Parents; Personnel Training; Data Collection and Reporting for Special Education; Intensive Interagency Approach; and Disproportionate Representation.

- (b) *The applicant failed to demonstrate that it has sufficient resources established across the state to meet the needs of students with disabilities.***

A cyber charter applicant is required to accept students who reside anywhere within the Commonwealth and provide all necessary services to those students. A cyber charter applicant is required to demonstrate that it can comply with federal and state special education requirements within the appropriate operation of a cyber charter school. A cyber charter applicant must identify all actual or potential service providers that will or may provide special education or related services to children with disabilities along with the services to be provided, pricing, location, transportation and qualifications.

William Bailey listed some “contracted supports to the Special Education Director” that will or may provide services to its special needs students. However, William Bailey did not identify any potential transportation service providers and did not demonstrate sufficient contact with the service providers to verify that they are available and willing to provide services to its students. William Bailey also failed to identify the pricing, location, method of delivery, and transportation arrangements associated with these providers. Finally, it is unclear what specific services may be provided by the providers and whether the services will be equally accessible to all students within the Commonwealth.

- (c) *The applicant failed to demonstrate that it has allocated sufficient special education teacher and support staff resources to meet the needs of students with disabilities.***

A cyber charter applicant must demonstrate that it will have enough special education teachers, support staff and related services personnel to meet the needs of the school’s students with disabilities. Although cyber charter schools are not subject to Chapter 14 of the State Board of Education regulations, 22 Pa. Code Ch. 14, the Department typically evaluates the adequacy of special education personnel by comparing teacher-to-student ratios to the caseload chart in the Pennsylvania regulations.

Although William Bailey included projections for special education students and total student enrollment, and teacher-to-student ratios, it testified that the initial projections were incorrect. In addition, the related services’ costs that were projected were completed without a proposal or tentative intention for employment with any providers.

- (d) *The applicant failed to demonstrate that it has a continuum of placement options available to meet the needs of students with disabilities.***

A cyber charter applicant must educate children with disabilities in the least restrictive environment. A cyber charter school must demonstrate that a continuum of alternative placements will be available to meet the needs of students with disabilities for special education and related services. The continuum must include the following: alternative placements, supplementary services, ESY services and approved private placement.

William Bailey did not provide any information regarding placement options but rather deferred to, an as of yet undetermined, special education director.

**(e) *The applicant failed to provide sufficient information regarding parent training.***

A cyber charter applicant must demonstrate an intention to provide parent training and engagement opportunities to assist parents in understanding their children's special needs, to provide parents with information about child development, and to help parents acquire the necessary skills that will allow them to support the implementation of their child's IEP.

William Bailey failed to provide any information regarding the types and extent of training that will be made available to parents who have children with disabilities.

**(f) *The applicant failed to demonstrate preparation to provide sufficient personnel training related to special education and related services.***

A cyber charter applicant must ensure that all personnel are appropriately and adequately prepared to provide special education and related services to students with disabilities. This should include: Positive Behavior support; math, reading, progress monitoring; inclusive practices; transition; autism; and/or interagency.

William Bailey did not provide information related to professional development opportunities available to the school's staff that focus on the school's special education program or meeting the needs of special education students.

**VIII. The applicant failed to provide sufficient evidence of an English as a Second Language Program.**

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including those whose dominant language is not English. A cyber charter applicant must also demonstrate that the programs outlined in its application will enable students to meet the academic standards under 22 Pa. Code Chapter 4 or subsequent regulations. An effective English as a Second Language (ESL) Program is required to facilitate a student's achievement of English proficiency and the academic standards under 22 Pa. Code § 4.12. Programs under this section shall include appropriate bilingual-bicultural or ESL instruction. In addition, the Department's Basic Education Circular, *Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL)*, 22 Pa. Code § 4.26, states that each local education agency (LEA) must have a written Language Instructional Program that addresses key components, including a process for identification, placement, exit, and post-exit monitoring; instructional model used; curriculum aligned to PA standards; and administration of annual proficiency and academic assessments.

William Bailey failed to provide sufficient evidence of an ESL program. The application failed to address the main components of an ESL Program, including the following: (1) a discussion of how students will be identified as ELL and placed in an ESL program; (2) a discussion of the instructional model for the ESL Program; (3) a discussion of the planned instruction that a qualified ESL teacher will use to educate ELL students; (4) a discussion of how ELL students will be annually assessed; (5) a discussion of how ELL students will be exited from the ESL

Program and monitored thereafter; and (6) a discussion of how the school will communicate with parents and guardians of ELL students in their preferred language and mode of communication.

William Bailey failed to discuss how students would be identified as ELL and placed in English language acquisition programs. William Bailey failed to demonstrate readiness to administer the Home Language Survey (HLS) to every newly enrolled student and failed to demonstrate a procedure to gather additional information about each student or readiness to administer the WIDA Access Placement Test (W-APT).

William Bailey failed to describe the instructional model it will implement to deliver English language acquisition instruction and, therefore, did not explain the educational theory supporting it. In addition, William Bailey failed to describe a process by which its program would be evaluated regularly.

William Bailey did not provide an ESL curriculum aligned to academic standards, PA Core Standards, and PA ELPS, and there was no discussion of an ESL curriculum.

William Bailey failed to discuss planned instruction for English language acquisition classes and did not account for how it would provide daily instruction to support the program model chosen. William Bailey did not identify the exact hours of instruction by proficiency level based on student needs and the program delivery model.

William Bailey failed to discuss planned instruction for academic content classes and failed to demonstrate that instruction in all content areas would be aligned to academic standards, PA Core Standards, and the PA English Language Proficiency Standards (PA ELPS). Moreover, William Bailey did not address how instruction would be commensurate with the student's proficiency level and include adaptations to instruction and assessment to ensure meaningful, comprehensive access in all content areas. William Bailey failed to discuss assessment of ELLs and failed to explain the procedure to ensure that the annual ELP assessment (ACCESS for ELLs) is administered to all ELLs. Furthermore, William Bailey did not explain a process to ensure that all ELLs participate in PSSAs and Keystone Exams with appropriate accommodations.

William Bailey failed to discuss instructional program exit and monitoring of students. William Bailey failed to describe a procedure to apply Pennsylvania's required exit criteria in order to exit ELLs from the English language instructional program and did not address a procedure to monitor students for two years after they exit the instructional program.

William Bailey failed to specify procedures to ensure communication with parents and guardians would be provided in their preferred language and mode of communication.

William Bailey failed to address other program components. William Bailey did not discuss retention/promotion of ELLs and that such would be based solely on lack of ELP. William Bailey failed to include any information regarding the provision of services and/or instruction for ELL students with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA). William Bailey did not demonstrate awareness of the annual requirements to report LEP data in the Pennsylvania Information Management System and the LEP System. William

Bailey failed to discuss resources, properly certified staffing and professional development related to ESL. William Bailey did not address translation/interpretation services by including these as line items in the school's budget. William Bailey did not demonstrate awareness that Title III funding must be used to supplement, not supplant, local and state funding for ESL programs.

**IX. The applicant failed to demonstrate a necessary understanding of applicable academic assessment and accountability programs and of the resources available to schools and students.**

The Department must annually review a cyber charter school's performance on state assessment tests, standardized tests and other performance indicators to ensure compliance with federal and state academic standards. The Department must also annually assess whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter. Accordingly, and pursuant to applicable laws, a cyber charter applicant must demonstrate that its programs will enable students to meet the academic standards under 22 Pa. Code Chapter 4 and that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all students. A cyber charter applicant must identify the educational goals of the cyber charter school and the methods of assessing whether all students are meeting the educational goals. A cyber charter applicant must include written policies and procedures that reasonably address the types of state assessment tests, standardized tests and other performance indicators that the cyber charter school will use, including those utilized by the Department, and how the cyber charter school will use the data collected from the tests and other indicators to measure students' academic performance and to improve instruction.

The federal Elementary and Secondary Education Act (ESEA) of 1965, as amended by No Child Left Behind (NCLB) of 2001, requires all LEAs to meet federal accountability standards and be assigned a designation that identifies their current status and overall progress in meeting federal accountability standards. NCLB requires all LEAs be designated as making or not making Adequate Yearly Progress (AYP) based upon their students' performance on state assessment exams and be declared in School Improvement or Corrective Action, if applicable. In August 2013, the Department received waivers from certain requirements of NCLB, which includes an allowance to use alternative accountability standards and designations to define achievement (ESEA Flexibility Waiver).

As of the 2013-2014 school year, the Department no longer used AYP as the federal accountability standard and to determine the designation of LEAs. Instead, in accordance with the ESEA Flexibility Waiver, the Department uses four Annual Measurable Objectives (AMOs) as the federal accountability standard and to designate those LEAs that receive Title I funds as Reward – High Achievement, Reward – High Progress, Priority, or Focus schools. The four AMOs include measuring Test Participation Rate, Graduation/Attendance Rate, Closing the Achievement Gap for All Students, and Closing the Achievement Gap for the Historically Underperforming Students. In addition, all LEAs, irrespective of whether the LEA receives Title I funding or is otherwise required to comply with federal accountability standards, receives a School Performance Profile (SPP) score based on 100 points. This score is considered the school's academic performance score, and while not the criteria for determination of Reward, Priority or Focus status, it details student performance through scoring of multiple measures that

define achievement. The SPP also includes supports to permit schools to access materials and resources to improve in defined areas related to achievement.

The Department uses the SPP score and supporting data to ensure uniformity in the review of whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter and the assessment of a cyber charter school's performance on state assessment tests, standardized tests and other performance indicators. Therefore, a cyber charter applicant must demonstrate a working knowledge of SPP, including its data components and information sheets.

Even if William Bailey does not seek or receive Title I funds, if approved to operate a cyber charter school, William Bailey will receive an SPP score and the Department will annually review William Bailey's performance based on the SPP.

***(a) The applicant failed to demonstrate an understanding of academic assessment and accountability for defined subgroups and content areas.***

A cyber charter applicant must set measurable academic goals and objectives for all its students, including specific goals and objectives for subgroups and content areas defined by federal and state requirements. In addition, a cyber charter applicant must explain strategies and plans to achieve the academic goals for the defined subgroups and contents.

William Bailey set measurable academic goals and objectives based on AYP and failed to explain the strategies and plans to achieve its academic goals and objectives. William Bailey failed to demonstrate an understanding that all public schools are expected to have a SPP score of 70 or above and the components of a SPP score, including the Pennsylvania Value Added Assessment System (PVAAS). William Bailey listed several standardized assessments to be employed but did not explain how the data will be analyzed or used for the purposes of meeting federal and state objectives for academic accountability. William Bailey stated that it would rely on a yet-to-be-hired principal for management of all aspects of accountability and assessments.

***(b) The applicant failed to demonstrate a necessary understanding of school improvement programs and resources.***

As noted above, the Department received the ESEA Flexibility Waiver that lays out the federal accountability standards, referred to as AMOs, and intervention systems for Title I schools. The Department has planning tools that schools are encouraged to utilize to ensure compliance with all federal requirements. For example, schools are encouraged to complete school improvement plans and the Comprehensive Planning Tool. In addition, as noted above, the Department will use the SPP score and supporting data to ensure uniformity in the review of whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter and in the review of the school's performance on assessment examinations, standards tests and other performance indicators. As a result, cyber charter applicants must demonstrate an understanding of the ESEA Flexibility Waiver, including the accountability measures, and the Department's planning tools. A cyber charter applicant must also demonstrate how it plans to use SPP to revise and/or adjust its school improvement plans if the school fails to meet the federal accountability measures in a given year.

William Bailey failed to provide any information that demonstrates a working knowledge of the ESEA Flexibility Waiver, the Department's planning tools, and SPP.

*(c) The applicant failed to submit sufficient information to demonstrate a readiness to address academic deficiencies.*

A cyber charter applicant must explain how it plans to achieve its academic goals and objectives, as well as grade-level proficiency and academic growth by at least one grade level within a school year for each student. A cyber charter applicant must also explain the remedial programs that the school will use should the students not achieve academic goals, grade-level proficiency and academic growth. The school should chose programs that are based upon research and studies proving that these programs will lead to success.

William Bailey lists several assessments for each subject area; however, William Bailey includes no references to any research that supports its suggested methods. Furthermore, William Bailey stated that it would rely on a yet-to-be hired principal for managing all aspects of accountability and assessment.

**X. The applicant failed to demonstrate the necessary financial support and planning.**

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate the capability, in terms of financial support and planning, to provide a comprehensive learning experience for its students.

*(a) The applicant failed to provide evidence of start-up funding and expenditures.*

The budget William Bailey included in its application did not include revenues that were identified or identifiable as start-up revenues. For example, although William Bailey stated during the hearing that it would need to obtain a line of credit to meet operating expenditures prior to receiving school district revenue, no such revenues are included in the budget. In addition, William Bailey failed to provide a letter of intent or any other evidence to demonstrate that the process of obtaining a line of credit has been initiated or that obtaining a line of credit would be feasible.

Although the expenditure schedule submitted with the application included a line item for "Start Up Services," the amounts budgeted are about the same in every year (growing at the rate of inflation) and, thus, appear that they are intended to cover the costs of starting each school year versus the activities required to establish a brand new school. William Bailey's budget includes only two line items that are higher in year one than in subsequent years. These line items are 1100-700, Regular Instruction – Property – Technology (presumably for computers) and 2380-700, Administration – Property (for office furniture). These two line items, combined at \$25,000, are higher in year one than in year two. It is unlikely this will be adequate to pay for activities included in the detailed timetable of projected steps and dates leading to the opening of the school contained in the application. These steps include developing a web site, designing and printing promotional materials, leasing space, advertising the school and distributing applications, establishing business and administrative offices, and conducting a bid process for selecting related service providers as well as purchasing furniture and supplies.

Since start-up expenditures are not clearly identified in the budget and no transitional funding source is included in the budget, William Bailey failed to demonstrate that it has the financial capacity to pay required expenses to commence operations.

**(b) *The applicant failed to demonstrate the school's ability to manage and oversee finances appropriately.***

Pursuant to the proposed Charter Choices Services Agreement (Service Agreement), Charter Choices will provide key financial management and accounting functions for William Bailey. However, the application and Services Agreement fail to identify the Charter Choices staff that will be providing these services, other than the initial "Manager Representative." The application and Services Agreement also fail to identify minimum qualifications and professional experience required of the individuals who will provide services, or the amount of time dedicated by Charter Choices staff to provide services to William Bailey.

William Bailey failed to identify the minimum qualifications and professional experience that a board member or employee will be required to possess in order to adequately oversee Charter Choices' performance. Neither the application nor the Services Agreement assigns responsibility for monitoring and overseeing the quality of Charter Choices' performance to any William Bailey board member or employee. In addition, the proposed Services Agreement does not obligate Charter Choices to provide William Bailey with a report regarding services provided to enable William Bailey to determine whether the services provided were consistent with the fees paid to Charter Choices.

The application does not provide a plan for the regular review of school budgets and financial records. Rather, it references the Services Agreement, but the Services Agreement does not address the regular review of school budgets and financial records. Notwithstanding that William Bailey submitted bylaws of another corporation and the Department is not obligated to identify deficiencies since they are not bylaws of the proposed cyber charter school, a cursory review of the bylaws shows that there are items in the submitted bylaws that would constitute deficiencies. The bylaws establish a minimum meeting frequency of the board as once per year and there is no requirement for the board to regularly review enrollment and budget information except for the requirement of the Treasurer to make a report on finances at the annual meeting. One meeting per year would not allow the board of a cyber charter school to timely recognize and respond to any budgetary challenges that may arise during the year. In addition, the submitted bylaws do not require an affirmative vote of the majority of the board members to take action on subjects such as adopting the annual budget, purchasing or selling land, creating or increasing any indebtedness, designating depositories for school funds, or entering into contracts of any kind where the amount involved exceeds \$200. The submitted bylaws also do not establish the finance committee referenced in the proposed cyber school's performance objectives.

**(c) *The applicant failed to provide expenditure estimates that are sufficient, reasonable, and consistent with the rest of the application.***

William Bailey failed to provide expenditures that are sufficient and reasonable. For example, the budget includes funding for transportation; however, the amount is calculated based on

special education enrollment and is included in the Special Education Programs budget (Purchased Property Services). No funds are budgeted for transportation to and from testing sites or “chat and chew” events referenced in its application.

The application describes marketing efforts using an “Ellucian Recruiter system,” “media advertisement,” working with support service networks of students with disabilities to advertise, and using social media, phone calls, and presentations. However, the budget line 2380-500, Administration – Other Purchased Services for Advertising is blank. During the hearing, a Charter Choices representative testified that advertising costs will be covered by the “Start-Up Service” budget, but this line item—budgeted at \$10,000—was identified as being for other start-up activities as well. This is not likely to be adequate for all advertising and start-up costs.

There were several amounts budgeted for third-party software, custom software, special education support, technology, and transportation. However, no quotes or examples of specific service providers or assumed pricing structures were provided in the application or during the hearing that would allow the sufficiency of such amounts to be evaluated. William Bailey was unable to provide any information that would be required to evaluate operational viability or the adequacy of the budget, such as the percentage of special education students who would require services in person, whether services would be provided on the site of a third-party provider or at a student’s home, or how transportation would be provided, if necessary. Although using industry experience as referenced by a Charter Choices representative may be expected to produce a budget that is similar to budgets of existing cyber charter schools, such a budget does not demonstrably represent the specific proposal of William Bailey.

Although William Bailey’s application and testimony supported the school’s intent to develop its own curriculum, course materials and activities, and web portal, William Bailey failed to provide evidence that it has sufficient resources to do so. William Bailey’s application fails to indicate whether the curriculum, web portal, and educational games will be developed by school staff or under a contract. For instance, William Bailey did not include a services contract in its application for the development of these items or a job description for a staff member who would perform these duties. As a result, it is unclear whether the budget adequately takes into account the costs associated with the development of these items.

During the hearing, a Charter Choices representative testified that the amounts budgeted for technology expenditures are based on industry experience and the type of technology needed to use the specific software and programs identified in the application. Without more information, such as quotes for the specific software and programs identified in the application, the Department is unable to verify the adequacy of this budget expenditure.

William Bailey failed to make reasonable allowances for the growth of costs over time. The budget shows several budget categories, including special education instruction and services, insurance, transportation, software, student internet, LMS/content, and student computers, growing over time due to an increase in enrollment but without accounting for inflation. Taken together, these items make up a significant portion of the budget and, therefore, the rate of inflation could have a material impact on the overall budget.

**XI. The applicant failed to provide evidence of sufficiently developed professional education plan and teacher induction plan.**

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students through effective and qualified educators and administrators.

**(a) *The applicant failed to provide evidence of a sufficiently developed professional education plan.***

A cyber charter applicant must identify the proposed faculty and a professional development plan for the faculty. A cyber charter school must have a detailed professional education plan that explains the following: (1) the professional development provider and participants, (2) the assessment of student needs to develop the professional development program, (3) the professional development program, and (4) the evaluation of the professional development program.

In its application, William Bailey did not provide any information relating to a professional education plan.

**(b) *The applicant failed to provide evidence of a sufficiently developed teacher induction plan.***

A cyber charter applicant must have a detailed Teacher Induction Plan that explains the following: (1) the teacher induction council, (2) the assessment of inductees' needs, (3) the teacher induction program, (4) the oversight and evaluation of the teacher induction program, and (5) recordkeeping.

In its application, William Bailey did not provide any information relating to a teacher induction plan.

**Conclusion**

Based on the deficiencies identified above, individually, collectively, and in any combination, William Bailey's application is denied.

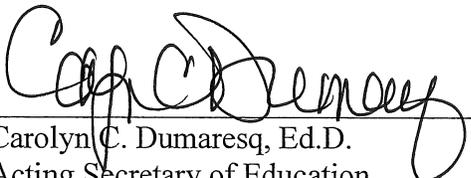
William Bailey may appeal this decision to the State Charter School Appeal Board (CAB) within 30 days of the date of mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 17-1746-A. If William Bailey files an appeal with CAB, it shall serve a copy of its appeal on the Department at the following address:

Pennsylvania Department of Education  
Office of Chief Counsel  
333 Market Street, 9<sup>th</sup> Floor  
Harrisburg, PA 17126-0333.

Alternatively, William Bailey may also exercise a one-time opportunity to revise and resubmit its application to the Department. *See* 24 P.S. § 17-1745-A(g). To allow sufficient time for the Department to review a revised application, a revised application must be received by the Department at least 120 days prior to the original proposed opening date for the cyber charter school. A revised application received after this time period will be returned to the applicant with instructions to submit a new application in accordance with 24 P.S. § 17-1745-A(d). If William Bailey submits a revised application, it shall submit the revised application to the Department at the following address:

Pennsylvania Department of Education  
Charter Schools Office  
333 Market Street, 10<sup>th</sup> Floor  
Harrisburg, PA 17126-0333.

A revised application shall contain: (1) the name of the applicant seeking review and identification of the submission as a revised application; (2) the date of mailing the revised application to the Department; (3) reference to the decision sought to be reviewed, including the date the decision was entered; and (4) a response to each deficiency listed in the decision.

  
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Carolyn C. Dumaresq, Ed.D.  
Acting Secretary of Education

  
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Date