



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
333 MARKET STREET
HARRISBURG, PENNSYLVANIA 17126-0333

SECRETARY OF EDUCATION

717-767-8820

January 28, 2013

Mr. Horace A. Trent, III
Akoben Cyber Charter School
6024 Ridge Avenue
Suite 116-407
Philadelphia, PA 19128

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Trent:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Akoben 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 Michael Wilson at (717) 214-5708 or mrwilson@pa.gov.

Sincerely,

Handwritten signature of Ronald J. Tomalis in black ink.
Ronald J. Tomalis

Enclosure

Pennsylvania Department of Education's Decision

Akobèn Cyber Charter School 2012 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. The CSL requires that a cyber charter school applicant submit its application to the Department by October 1 of the school year preceding the school year in which the cyber charter school 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 proposed Akoben Cyber Charter School (Akoben) submitted a timely application to establish a cyber charter school. The Department provided 30 days notice of a public hearing held on November 26, 2012.

Decision

Based on a thorough review of the written application as well as questions and responses recorded at the November 26, 2012 public hearing, the Department is denying Akoben's application. Deficiencies were found in the following areas:

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

The application did not comply with applicable requirements.

(a) Evidence of current application information is not evident.

The CSL authorizes the Department to develop forms necessary to carry out the provisions of the CSL applicable to cyber charter schools. On an annual basis, the Department posts a Cyber Charter School Application document on its publicly accessible website. For applicants seeking to begin school operations during the 2013-2014 school year, the Department posted a 2012

Cyber Charter School Application. The application submitted by Akoben is the Department's 2011 Cyber Charter School Application, posted on the Department's website for application seeking to begin operations during the 2012-2013 school year. Akoben's application is dated October 3, 2011. The Application Fact Sheet states that the proposed start date for the school is August 2012. Other information provided by Akoben in its application, including the timetable of projected steps and dates leading to the opening of the school and the proposed budget, identify the first year of operation for the school to be the 2012-2013 school year. Akoben failed to provide evidence that it had prepared a current application for a proposed opening of the school in the 2013-2014 school year.

Additionally, Akoben appears to have attempted to supplement its earlier application with a separate document which includes responses to deficiencies identified in that earlier application. The Department will not accept a supplemented application in this format. An applicant is required to complete the application form prepared by the Department and provide all information in that application and related attachments. Seeking to revise or supplement an earlier unsuccessful application in a following year through a separate document to address deficiencies does not demonstrate the applicant's ability to comply with the CSL and other applicable requirements.

(b) Evidence of insurability was not submitted.

The CSL requires that a cyber charter school applicant submit a description of how the cyber charter school will provide adequate liability and other appropriate insurance. In its application, Akoben describes the types and levels of insurance that the applicant intends to procure and states that it has engaged in a review of the available insurance offerings from different providers. However, Akoben failed to submit any evidence of insurability.

(c) Accurate information concerning student grade level and ages not submitted.

The CSL requires that the applicant submit information to identify the grade and age levels offered by the school. In its application, Akoben provides conflicting information concerning the grade levels to be offered as part of its initial 5 year charter, including the grade levels to be offered during the initial year of operation. Portions of the application state that Akoben seeks a charter for a school offering grades 5-12. Other portions of the application, and statements made during the public hearing, state the school will only offer grades 5-11 during its initial 5 year charter. Further portions of the application state that Akoben seeks to offer grades 5-7 during the first school year. However, other portions of the application state that the school will offer grades 5-8 during its first year. The applicant must clearly and consistently identify the grades to be included in the charter it seeks to be approved by the Department, including the specific grades to be offered during each of the initial five years of the operation of the school.

(d) Information concerning the total days or hours of instruction was not provided.

A cyber charter school is required to provide a minimum of 180 days and 900 hours of instruction per year at the elementary level and 990 hours of instruction per year at the secondary level. Akoben intends to provide instruction at the elementary and secondary levels. Akoben's

application does not provide sufficient detail to demonstrate compliance with the minimum instruction requirements. To the extent that hours of operation are identified in the application, the application does not clarify how these hours of operation and how courses will meet the minimum instructional time requirements. Further, because no school calendar for the 2013-2014 school year was provided, the application does not provide sufficient information to support a conclusion that the minimum instructional time requirements will be met.

The applicant did not establish demonstrated, sustainable support for the school plan.

One of the criteria to be used by the Department to evaluate a cyber charter school application is the “demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students.” 24 P.S. § 17-1745(f)(1)(i). “[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.

Akoben’s application includes three letters and several petitions that Akoben submits to demonstrate support for the cyber charter school. All of the letters and petitions are dated September or October 2010. The remaining petitions are not dated and identify the cyber charter school applicant as “Akoben Regional Collectives Cyber Charter School.” No recent letters or petitions indicating current or ongoing support for the cyber charter school were included in the application.

Additionally, all of the letters and petitions submitted identify the applicant’s supporters as being located in Philadelphia and the immediately surrounding area. No letters or petitions demonstrating support outside of the Philadelphia area were submitted. During the public hearing, the applicant stated that current inquiries into support for the cyber charter school and initial plans for the school, including establishment of a learning center, were exclusively concentrated in the Philadelphia area. In its application, Akoben states that students will be drawn primarily from the School District of Philadelphia in the first five years. As a cyber charter school, the applicant would be required to enroll students from a state-wide population. The success of the cyber charter school will be largely dependent on its ability to enroll students from across the state and provide services, including those dependent on community support, to those students. This is especially important where a cyber charter school seeks to operate a program with a specific focus. In the case of Akoben, the school will have an “African-centered” experience. The applicant did not provide any evidence of support for a charter school with this specific focus on a state-wide basis. Akoben did not submit evidence of ongoing support for the cyber charter school in that statewide community.

The applicant did not provide information to establish proper use of physical school facilities.

Schools that operate under a charter are divided into three general types – charter schools, regional charter schools, and cyber charter schools. The first two, charter schools and regional charter schools, are authorized to operate through charters granted by a local board of school directors. See 24 P.S. §§ 17-1717-A(c) and 17-1718-A(b) and (c). These schools are commonly

referred to as “brick-and-mortar” charter schools and focus on teacher-centered instruction, including teacher-led discussion and teacher knowledge imparted to students, through face-to-face interaction at the schools’ physical facilities. By contrast, cyber charter schools are authorized by the Department, *see* 24 P.S. § 17-1741-A, and offer a structured education program in which content and instruction are delivered over the Internet without a school-established requirement that the student attend a supervised physical facility designated by the school, except on a very limited basis, such as for standardized tests.

By establishing different provisions for the authorization of the individual types of charters by separate agencies, the General Assembly acknowledged that significant differences exist between these types of schools and signaled its intent that cyber charter schools are materially different from charter schools and regional charter schools.

As defined by the CSL, a cyber charter school is “an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means.” *See* 24 P.S. § 17-1703-A. The CSL’s definition of a cyber charter school is not the exclusive legislative guidance for the requirements applicable to cyber charter schools, however. *See* 1 Pa.C.S. § 1921(a) (statute shall be construed to give effect to all its provisions). Additional provisions of the CSL, in addition to the fact that subarticle (c) specifically addressed cyber charter schools separately from other schools that operate under a charter, lead to the conclusion that a cyber charter school must exist exclusively, or at least in all material respects, in a virtual environment, as further explained below, and use physical facilities only as a supplement to virtual instruction.

For example, 24 P.S. § 17-1723-A(c) permits charter schools and regional charter schools to “enroll nonresident students on a space-available basis.” This and other similar features are irrelevant to cyber charter schools, that provide their curriculum in a virtual environment. Likewise, 24 P.S. § 17-1726-A, which relates to transportation to charter schools and regional charter schools, does not apply to cyber charter schools. *See* 24 P.S. § 17-1749-A(a)(1). The General Assembly did not find it necessary to ensure enrollment preference for resident students or provide provisions for transportation of cyber charter school students, because it intended that a cyber charter school deliver instruction in a virtual environment, and not at a school’s physical facility that would be located within the boundaries of a particular school district or require that students be transported to the physical facility for attendance.

Specific cyber charter school application requirements — which supplement those that are otherwise applicable to all applicants that seek to operate schools under a charter — further evidence that the General Assembly recognized the differences between brick-and-mortar charter schools and cyber charters schools. For example, in addition to the requirement in 24 P.S. § 17-1719-A(12) that a charter application include information on the length of the school day, a cyber charter application must include an “explanation of the amount of on-line time required for elementary and secondary students” and a “description of how the cyber charter school will define and monitor a student’s school day, including the delineation of on-line and off-line time.” 24 P.S. § 17-1747-A(3) and (7). The collection of this additional information in the application is necessary because cyber charter school students “attend” school in a virtual (on-line)

environment and not at a physical school facility. Also, in addition to providing a description and address of the physical facility in which the school will be located, 24 P.S. § 17-1719-A(11), a cyber charter school application must include the “addresses of all facilities and offices of the cyber charter school. . . .” 24 P.S. § 17-1747-A(16). Here, the General Assembly recognized that a cyber charter school would operate from multiple locations for any in-person interaction with students to supplement virtual instruction, if at all, and required that applications provide a description of “all” facilities and offices as compared to “the physical facility.”

As an administrative agency, the Department must act within the scope of the authority delegated to it by the General Assembly. *Mack v. Civil Service Commission*, 817 A.2d 571, 574 (Pa. Cmwlth. 2003). Both local boards of school directors and the Department are independently granted authority to review and act upon applications for the establishment of public schools that operate under a charter, and to oversee and regulate the schools. Acting within the authority granted to the Department by the General Assembly also requires that the Department not invade upon the separate authority granted to local boards of school directors by the General Assembly. Consequently, in considering applications for the establishment of cyber charter schools and in the general oversight and regulation of cyber charter schools, it is essential that the Department recognize the differences between these types of schools. As a practical matter, this means the Department is not authorized to permit the establishment or operation of a cyber charter school that provides face-to-face instruction in a physical facility and which should instead be authorized by local boards of school directors. The Department’s public recognition of these distinctions assists charter applicants with identifying the appropriate charter authorizer for submission of an application for the establishment of a charter school, regional charter school or cyber charter school, and in determining the proper procedures for submission of an application to the authorizer.

Because of the limitations of the CSL described above, 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 the purpose of providing no more than supplemental services (e.g., tutoring, counseling, extra-curricular activities, standardized testing) to enrolled students. Any use of physical facilities by a cyber charter school for these supplemental services shall provide equitable access to such services for all students enrolled in the school. To ensure equitable access, a cyber charter school must have materially the same supplemental services available to all enrolled students wherever they live in the Commonwealth. If the physical facilities designated by the cyber charter school are not accessible to a student, the cyber charter school must be prepared to demonstrate that it can provide for suitable electronic communication with the student or provide for a staff member or contracted consultant to travel to a location convenient to the student to provide such services. A cyber charter school may only require students to attend a physical facility designated by the cyber charter school: to take standardized tests, including PSSA tests; when the cyber charter school’s written policies require supervised completion of course work or tests due to concerns relating to completion of earlier assignments or tests by a student (e.g., reasonable suspicion of others completing the student’s work or tests); and, for individual or planned student/parent/guardian meetings with teachers or other school staff if there is reasonable necessity for such meetings to be conducted at a physical facility and such meetings

cannot be conducted through electronic means. Finally, to ensure that the operation of a cyber charter school will not have a significant impact on one or a defined group of school districts, which would legally require authorization of the school as a charter school or regional charter school, the cyber charter applicant or operating cyber charter school must 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 its application and during the public hearing, Akoben states the school will focus on seeking out and enrolling students from the Philadelphia area and plans to operate a learning center in Philadelphia. Akoben failed to provide detailed information in its application concerning the purposes of the learning center, including the policies and procedures applicable to use of the center by students or the school. During the public hearing, Akoben's representatives stated the center would operate as a "blended" environment where students could attend and receive a significant portion of their instruction. Akoben also states its students and their families will participate in a six-week orientation program, with face-to-face time at the Akoben headquarters and selected community locations, and that throughout the year, students will have extensive access to physical education and recreational activities at the Kroc Center near the school's headquarters. Akoben's representatives also stated that services offered by the school to students in various parts of the state would vary depending on whether a learning center was available in that area. No information was provided on how services offered to students in different parts of the state would be equitably delivered.

Based on information provided in Akoben's application and at the public hearing, Akoben has failed to show that its proposed use of physical facilities would be in compliance with the proper use of physical facilities by a cyber charter school as identified above.

The applicant did not submit sufficient evidence of properly established procedures for governance of the school.

(a) Articles of Incorporation and bylaws.

The CSL requires that the applicant submit information relating to the proposed governance structure for the school, including the board of trustees. In its application, Akoben states and identifies five initial members of its Board of Trustees. Akoben's bylaws state that the "next initial Board of Trustees" (the Board to succeed the initial five member Board) will have no more than three members – two fewer than the initial Board. Thereafter, the Board will consist of no more than five members. Akoben does not provide any explanation of how the Board will properly elect and adjust to fewer members in its next initial Board, including a description of how many members will be replaced from the initial five member Board, to necessary support and planning to ensure continuity of operations and a comprehensive learning environment.

(b) Agreements with providers of services were not submitted.

During the public hearing, Akoben stated it was partnering with Connections Education for curriculum and other services and with Charter Choices, LLC, for financial services. The

applicant also identified other partnerships to assist the school in providing services for its operation and for its students. The application did not provide sufficient detail concerning the role these other entities would have in the operations of the school or what services would be provided by the entities. Additionally, agreements with the entities were not submitted in either draft or final form. Without additional information concerning the roles of these entities, the applicant has failed to demonstrate that it will properly operate as an independent public school or that it has the necessary support and planning to provide a comprehensive learning experience to students of the cyber charter school.

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

(a) An updated proposed budget was not submitted.

In its application, Akoben submitted a three page document as a five year budget to demonstrate the financial sustainability of the cyber charter school. The proposed budget fails to provide detail on the revenues and expenditures associated with each of the entries. Additionally, the proposed budget begins the schools operations during the 2012-2013 school year. The applicant would not begin operating until, at the earliest, the beginning of the 2013-2014 school year. Akoben failed to submit sufficient evidence of financial planning for a school to begin operation in the 2013-2014 school year. Since the submitted budget does not reflect the school's budget for 2013-2014 as intended, it is not possible to fully evaluate the school's financial plan.

(b) The applicant did not submit sufficient evidence of preliminary or start-up funding.

The applicant did not submit a start-up budget, and no revenue sources were identified other than tuition payments from districts, state PSERS reimbursements, and federal revenue. The application does not contain evidence that the school will have start-up capital to fund operations prior to the receipt of other revenue. During the public hearing, Akoben's representative from Charter Choices, LLC stated that they typically "reach out to lending institutions to cover for the period before cash flow starts." The application does not mention an established line of credit or any evidence that a loan can be secured, and no evidence that the school will have sufficient cash to cover expenses prior to the receipt of revenue. Akoben also states that it intends to seek federal and private grant funding, but did not submit sufficient evidence of the availability of the grants, proposed grant amounts, or likelihood of success in obtaining the grants. Akoben also states that the school will seek favorable financing plans from vendors during the start-up period. During the public hearing, Akoben's representatives discussed the possibility of obtaining computers, such as iPads, and other technology from vendors through the acquisition of products that has been superseded by newer models or devices. For example, Akoben's representatives discussed purchasing earlier models of iPads from a vendor's remaining inventory at a cost lower than current models. Notwithstanding these statements, the applicant failed to submit any evidence that it had conducted a proper inquiry into the possibility of these acquisitions, including the likelihood that such acquisitions are even possible or that the acquisitions would result in any significant cost savings for the school. The school must submit a plan to fund operations during the start-up period.

- (c) *The applicant did not submit sufficient evidence of financial support and planning for technology and related services.*

The budget as submitted includes \$85,200 for “technology.” During the public hearing, Akoben’s representative stated that the school plans to lease computers at a cost of \$600 per student. At 400 students in the first year, the cost would be \$240,000. Based on the information included in the application and provided at the public hearing, this proposed budget amount was not sufficient to cover the full cost of student computers and peripherals. Additionally, the proposed budget document was unclear on whether costs for internet subsidies are included. A detailed budget that reflects the school’s current financial plan must be submitted, and costs included must be consistent with the school’s stated plan for operations as contained in the application and supplemented by hearing testimony.

- (d) *The applicant failed to submit sufficient evidence of leasing arrangements for the physical school facility.*

Akoban’s application does not include a current lease, letter of intent to lease, or any other evidence that a facility has been identified and that the lease rate will be covered by the amount budgeted for rent. The application does identify two possible sites, and the applicant stated that discussions have taken place with owners of two potential sites. The school has engaged a realty company to assist with the selection of a site, and cost estimates are shown in the application but not documented with any form of agreement or letter from the property owners. Additionally, the leasing information provided in the application provided for a lease term beginning in the year ending 2012. The applicant failed to submit sufficient information to demonstrate that the lease terms would be identical or sufficiently similar for a lease term beginning in the year ending 2013.

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

Akoban uses a projected teacher-student ratio which appears to take into consideration students who only require an itinerant level of instructional support. It is understood that cyber charter schools are not required to provide a particular student-teacher caseload ratio; however, the projected staffing ratio offered by Akoben, does not make allowances for students who will require more intensive individualized or small group instruction from special education teachers (resource room pull-out, part-time, full-time instructional support). Students requiring these levels of support are already present in cyber charter school populations across the state, thus Akoben can expect a similar enrollment pattern. Additionally, the projected ratio fails to take into consideration or fails to properly describe how time for case management, Individualized Education Program (IEP) goal monitoring and progress reporting, attendance at IEP’s, etc., will be addressed with financial resources.

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

Curriculum materials submitted with Akoben's application showed little evidence of a curriculum framework in the areas of Math and English to meet requirements of 22 Pa. Code Chapter 4. At the public hearing, Akoben stated curriculum detail was not provided and that Commonwealth Connections Academy will provide maps delineating the curriculum.

Akoban did not articulate how planned instruction aligned with academic standards shall be provided at all grade levels in the areas of assessment and resources for all the Standards Areas outlined in Chapter 4. Akoben plans to offer instruction for grades 5-12 and did not provide sample lessons or assessments aligned to the course work being offered.

Lastly, Akoben could not provide sufficient evidence to verify that the courses to be offered were aligned to PA Academic Standards or the PA Common Core Standards. During the public hearing, Akoben admitted that curriculum and courses continued to be revised and were not all finalized at the current time. Although the expectation was that they would be finalized for the start of the 2013-2014 school year.

In addition, Akoben did not provide any curriculum for Advanced Placement courses or for Physical Education. Akoben stated that Commonwealth Connections will provide course work for vocational-technical education, technology education and fine arts, but that course curriculum was not provided in the application.

The applicant failed to provide sufficient evidence of an English as a Second Language (ESL) Program.

22 Pa. Code § 4.26 requires that a cyber charter school "provide a program for each student whose dominant language is not English for the purpose of facilitating the student's achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction." The 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. Cyber charter schools are subject to 22 Pa. Code Chapter 4 and the Department's related requirements for ESL programs.

Akoban's application failed to provide sufficient evidence of an ESL Program that is appropriate for the education of English language learners. The application failed to describe in sufficient detail how key components of a Language Instructional Program would be implemented. For example, with regard to the process by which Akoben will monitor the progress of former ELLs who have been exited ESL, Akoben attaches the *Post Exit Monitoring Forms* and states only,

“Monitor students released from ESL program for at least two years to ensure continued success after program termination.”

Moreover, the application does not specify planned instruction for English language learners. Akoben attached the *Characteristics of Major Program Models for ELLs* document, but does not indicate which research-based program model for English language acquisition will be implemented. The application includes the PA English Language Proficiency Standards, but it fails to provide an ESL curriculum aligned to PA English Language Proficiency Standards and academic standards. In addition, the application does not account for the number of courses or online time required for daily ESL instruction.

While Akoben representatives at the public hearing described the use of a “supplementary ELL program” that builds students’ English language skills in the content area while they’re working through core content material,” it’s not clear whether this program provides core curriculum instruction in ESL or provides comprehensible access to content area instruction and assessment.

The applicant failed to provide evidence of sufficiently developed professional education and teacher induction plans.

A cyber charter school applicant must provide a detailed professional education plan that designates, or provides for the designation of, a professional education planning committee consisting of parents, administration representation, teachers and educational specialists designated by their peers, community representation and local business representation. Akoben failed to provide sufficient information to evidence of a professional education plan that meets applicable requirements.

At the public hearing, Akoben’s representatives did not clearly define the professional education plan’s action plan design, including the identity of the person responsible, timeline of implementation, resources, number of hours per session, number of sessions per year, estimated number of participants per year, knowledge and skills, research and best practices, designed to accomplish, follow-up activities, evaluation methods. Akoben’s plan also did not include information on who was going to be on the committee.

Akoban’s application failed to provide evidence of a teacher induction plan that includes a designated teacher induction coordinator who will oversee the implementation of the plan or explains how mentors will be designated and matched with the new teachers in a sustainable mentor-inductee relationship. At the public hearing, the representatives mentioned that “student teachers will have their strengths assessed and reviewed.” Student teachers should not be a part of the teacher induction program. No information was included from the Department’s new teacher effectiveness tool. The plan also failed to provide an explanation of how the induction program will be monitored and evaluated.

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

(a) The applicant failed to demonstrate that it has allocated sufficient special education teacher resources to meet the needs of students with disabilities.

As also stated above, Akoben's application did not include sufficient evidence that the applicant planned for the resources necessary to meet the needs of students with disabilities or special education needs. Akoben's projected teacher-student ratio appears to take into consideration students who only require an itinerant level of instructional support and does not make allowances for students who will require more intensive individualized or small group instruction from special education teachers. Additionally, the projected ratio fails to take into consideration or fails to properly describe how time for case management, Individualized Education Program (IEP) goal monitoring and progress reporting, attendance at IEP's, etc., will be addressed with financial resources.

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

Akoben's application fails to address and meet the requirements of 34 CFR § 300.115(a) and (b)(1) and (2), requiring a continuum of placement options available to meet the needs of students with disabilities. There is little evidence in the application to demonstrate that the applicant has developed at least some local capacity provided services to students other than those whose needs can be met in the general education classroom. Akoben failed to demonstrate that its program has the local capacity to meet the needs of students who require more than inclusion in the general education classroom.

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

As a statewide cyber charter school, Akoben would be required to accept students who reside anywhere within Pennsylvania. Akoben's application contains a list of some educational vendors who are potential service providers to Akoben's special needs population. However, Akoben acknowledged that it has not had sufficient contact with these vendors (at least a statewide sampling) to verify if they are available and willing to provide services to Akoben students, and that their pricing scheme fits into Akoben's projected special education budget. Additionally, the application does not address transition planning and the resources that Akoben has established to address post-secondary education, employment and independent living, including, for example, how will student internships and job shadowing be implemented and monitored, how college visits and career days be addressed statewide, and what resources have been dedicated to life skills and independent living transition objectives. The services must be in place when the school opens, and plans and resources to address the "who, what and how" are not sufficiently addressed in the application. The application also fails to identify vendors who can provide transportation as a related service to students with disabilities when required as a part of their IEP.

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

Akoben failed to submit any policies or procedures in key required areas of special education which could demonstrate that it has a working knowledge how special education operates and how it will implement these requirements within its program. In an appendix to its application, Akoben has submitted some documents which address certain areas of special education; however, these documents generally restate applicable requirements and provide assurances and do not provide evidence of Akoben's ability to implement the applicable requirements or administer the special education program. Key areas not addressed include: Child Find, Assistive Technology, the IEP Process, Parent and Teacher Training Opportunities related to special education topics, Least Restrictive Environment, Positive Behavior Support (including the use of restraints), Independent Education Evaluation at Public Expense, Confidentiality, Extended School Year, Dispute Resolution, Intensive Interagency, Graduation and Dropout Prevention, Suspension and Expulsions of Students with Disabilities, Disproportionate Representation of Minorities, Public School Enrollment, and Surrogate Parents.

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

- (a) *The applicant failed to demonstrate compliance with requirements for reimbursement for internet and related services.*

The CSL requires that a cyber charter school provide or reimburse for all technology and services necessary for the on-line delivery of curriculum and instruction. Akoben failed to submit sufficient information to ensure compliance with the CSL's requirements concerning internet reimbursement.

In its application, Akoben states that it will provide internet reimbursement three times a year in December, March and June. Akoben does not describe any procedures for reimbursement of internet services for students that remain enrolled in the cyber charter school between the end of a school year and the beginning of the next school year. In its application, Akoben also states that the maximum reimbursement will be \$50.85 (for dial-up services) paid three times a year and \$120 paid three times a year (for broadband services). Akoben does not include any information to ensure that the full cost of internet reimbursement will be provided even if those costs exceed the identified \$50.85 and \$120. Further, Akoben did not include any information to describe other methods to obtain and to pay or reimburse for high-speed internet service that would be needed in the event that traditional broadband service (DSL, cable, etc.) are not available to the student. During the public hearing, an Akoben representative stated that the goal would be to pay subsidies monthly, but that the applicant may need to make quarterly payments in the first year. Quarterly or tri-annual payments may cause financial hardship for families paying monthly internet costs for several months before they are reimbursed. Additionally, Akoben indicated that some or all students would receive iPads or other devices that only provide for internet access through wireless connectivity. Akoben failed to provide any

information concerning its plans to provide or reimburse for the necessary wireless connectivity service plans and equipment.

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

During the public hearing Akoben representatives indicated that a six week orientation for each grade will be provided for all students. Content regarding appropriate online behavior is to be included within the orientation and will address educational experiences regarding the interacting with others on social networking websites/chat rooms, as well as cyber bullying awareness and response. However, sufficient information was not included as to the types of education experiences students will receive in appropriate online behavior beyond the initial six week orientation.

- (c) *The applicant failed to provide sufficient information concerning the technical support to be provided to students and their parents or guardians.*

During the public hearing Akoben representatives indicated that student and parent/guardian training in troubleshooting and fixing of technological equipment is incorporated into the design of the program. In addition representatives indicated that although students are encouraged to use the equipment provided by Akoben, students and their parents/guardians can decide to use their own equipment. Akoben failed to provide sufficient information to address the technical support Akoben will provide versus the responsibility of the parents and/or students both for Akoben equipment and personal equipment. Also, Akoben failed to provide sufficient information as to how it will address the need for students to install and maintain filtering software on non-school provided equipment.

- (d) *The applicant failed to demonstrate planning for the necessary level of internet connectivity.*

Broadband connectivity is essential for every student to have the same level and quality of access to all instructional materials and collaboration tools within a cyber charter school environment. However, Akoben's application states that much slower dial-up internet connections are an option for students. Notwithstanding this option, in its application, Akoben admits that "students with 56 kbps (dialup) modem speeds can participate, but may be unable to participate in some activities. High-speed Internet via DSL or cable modem is strongly recommended." During the public hearing, Akoben representatives reiterated that broadband or other high speed internet access is preferable, but dial-up is still an option. Akoben representatives also indicated that options such as satellite connections, air cards, and partnering with community groups or higher education entities could provide options for students to have high speed access. However, formalized policies and procedures have not been established as to the specific broadband requirements for students, including the options that will be explored to try to get high speed access to students who many currently only have dial-up to the home and details were not provided for how the service would be provided to those students where it is not possible to provide alternate high speed options to ensure that an equitable, timely education experience is

provided for all. Akoben also failed to verify that the school will cover the costs of all options of providing high speed access to students.

The applicant failed to demonstrate a necessary understanding of the Department's Comprehensive Planning web application and all of the associated School Improvement Planning tools.

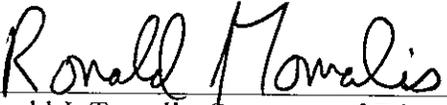
During the public hearing, Akoben representatives failed to demonstrate any understanding of the ongoing dialogue the Department has with the U.S. Department of Education relating to the "Accountability Workbook" which is updated at least yearly and contains critical information affecting all Commonwealth public schools. Akoben failed to provide a viable alternative to the Department's planning process which would ensure compliance with all federal and state, district and school level planning requirements. Due to Akoben's stated lack of familiarity with the Department's planning process, a plan to ensure all federal and state requirements are met was not presented at the public hearing or in the application -

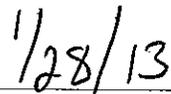
During the public hearing, the Department's representatives described the gains that must be made by students to meet No Child Left Behind (NCLB) thresholds. In some cases, meeting these thresholds would require the school to ensure that students achieve multiple year gains in a single school year. Despite targeting specific student populations, Akoben representatives failed to demonstrate an understanding of specific achievement needs of students likely to enroll in the school. Akoben's application lacks information on any unique strategies that would be offered to address the extraordinary gains needed to achieve the NCLB thresholds.

Conclusion

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

Akoben 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. In the alternative, Akoben may exercise a one-time opportunity to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). To allow sufficient time for the Department to review the revised application, the revised application must be received by the Department at least 120 days prior to the originally 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).


Ronald J. Tomalis, Secretary of Education


Date