



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

SECRETARY OF EDUCATION

717-787-3880

January 28, 2013

Mr. Allen Kessler
Insight PA Cyber Charter School
30 South 17th Street
Philadelphia, PA 19103

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Kessler:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Insight PA 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,


Ronald J. Tomalis

Enclosure

Pennsylvania Department of Education's Decision

Insight PA Cyber Charter School 2012 Cyber Charter School Application

Background

Pursuant to the Charter School Law (CSL), 24 P.S. §§ 17-1701-A – 17-171-A, the Pennsylvania Department of Education (Department) has the authority and responsibility to receive, review and act on applications for the creation of a cyber charter school. The CSL requires that a cyber charter school 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.

Insight PA Cyber Charter School (Insight) submitted a timely application to operate as a cyber charter school. The Department provided 30 days notice of a public hearing held on November 28, 2012.

Decision

Based on a thorough review of the written application as well as questions and responses recorded at the November 28, 2012 public hearing, the Department denies Insight's application. Deficiencies were found in the following areas:

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

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

Pursuant to the CSL, an applicant must show demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students. As noted in previous rulings by the State Charter School Appeal Board (CAB), the term "sustainable support" means support sufficient to sustain and maintain the proposed cyber charter school as an on-going entity. *See,*

In Re: Ronald H. Brown Charter School, CAB 1999-1, p. 18. The indicia of support are to be measured in the aggregate rather than by individual categories. *Id.*

However, Insight failed to provide copies of any letters, petitions or other documentation of support from anyone. The only thing Insight provided with its application was a list of names and addresses. Simply providing a list of names and addresses of people who supposedly support Insight does not demonstrate sustainable support for Insight's cyber charter school plan. At a minimum, there must be signed documentation from a sufficient number of people to evidence sustainable support of the cyber charter school plan.

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

(a) Articles of Incorporation

Although Insight provided a copy of Articles of Incorporation (Articles), the Articles do not contain the stamp of the Pennsylvania Department of State; thus, there is no evidence that the Articles were filed with the Department of State. During the hearing, Insight stated that PA Community Partners for Education (Community Partners) was a 501(c)(3) corporation that would do business as Insight PA Cyber Charter School.

The CSL requires that a cyber charter school be organized as a public, nonprofit corporation and only permits the granting of a charter to a public, nonprofit public corporation. Therefore, the Department must have a copy of the Articles that have been fully executed and filed with the Department of State so that the Department can verify that Insight is an independent public, nonprofit corporation. Insight must be a nonprofit corporation and cannot be merely a fictitious name under which another corporation does business.

(b) The Bylaws and Services Agreement submitted with the application provide conflicting and confusing information and evidence inappropriate dependence on K12, Inc.

With its application, Insight provided Bylaws for Community Partners. In addition, a copy of a draft Services Agreement was submitted with Insight's application; but it is an agreement between Community Partners and K12, Inc. (K12), not between Insight and K12. Notwithstanding that the Services Agreement states that it is between Community Partners and K12, the signature page shows it is to be signed for or on behalf of Insight and K12. Since the Bylaws and Services Agreement are for Community Partners and there is no evidence that the Articles included in the application were filed with the Department of State, there is clearly conflicting information and confusion about the entity that would be the cyber charter school.

In addition, in the draft Services Agreement between Community Partners and K12, it is stated that the term is from July 1, 2013 through June 30, 2024. Even if this agreement were between Insight and K12, there is no explanation about why the agreement is for a period of eleven (11) years, when a charter can only be granted for a maximum period of five (5) years. Also, the agreement is to be automatically renewed for seven (7) year periods and a two (2) year notice of

nonrenewal is required. Finally, it is stated in the draft agreement that if the term does not equal ten (10) years, the Board cannot enter into an agreement with another entity for eighteen (18) months after the last date the agreement was in effect. Not only is the term of the lease troubling because it exceeds the maximum term for a charter to be granted, but the other time periods are confusing and also troubling. Having a seven (7) year renewal period, which exceeds the maximum length of a charter term, requiring a two (2) year notice of nonrenewal, and prohibiting the school from entering into an agreement with another entity until eighteen (18) months after the end of this agreement could seriously cripple a cyber charter school. Such terms evidence the proposed cyber charter school's total reliance on K12 to operate the school and the very difficult, if not impossible, ability of the cyber charter school to ever terminate K12.

Also, the draft agreement states that K12 will employ administrators and other staff, including teachers, as K12 deems necessary. However, the Commonwealth Court has held that the CSL does not prohibit a for-profit entity from operating a charter school so long as certain criteria are met, which includes teachers being employees of the charter school itself. *See, West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 468 (Pa. Cmwlth. 2000), *affirmed*, 812 A.2d 1172 (Pa. 2002). Therefore, K12 cannot be the employer of the teachers of the cyber charter school.

(c) Information in the employee manual conflicts with the application Fact Sheet and provides confusing information regarding Insperty.

Insight submitted a draft employee manual. It is stated in the manual that Insight is for grades K-12, although the Fact Sheet in the application states that Insight is only to serve students in grades 6-12. In addition, the manual states that it is a multi-state handbook; thus, it is not specific to Pennsylvania or to Insight employees.

In its application, Insight states that it will contract with Insperty for human resource and benefits services. However, the draft employee manual states that employees are employees of both Insight and Insperty, which is collectively referred to in the Employee Manual as the Company. It is not clear how or why Insight employees could also be employees of Insperty and Insight has not provided sufficient information about this relationship to allow the Department to determine whether it is an appropriate or permissible relationship.

The applicant did not comply with applicable requirements regarding the location of the cyber charter school.

Pursuant to the CSL, an applicant must identify in its application the addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements. However, Insight noted on the application Fact Sheet that it did not have a facility at this time. Within the application, it was also stated that an administrative office would be located in the Delaware County area and would be located where the highest projected concentration of students would be, which would presumably be the Philadelphia metropolitan area. In another part of the application it was stated that the administrative offices could be within Delaware, Chester or Montgomery counties. Although Insight provided a real estate market survey that identified six (6) commercial properties, Insight failed to identify a particular facility where it

intended to be located. Insight stated that it is waiting for the status of the application to finalize site selection and negotiate a lease. However, even though Insight is not required to provide a signed lease for a facility, it is required, at a minimum, to provide a letter of intent regarding the facility where it intends to be located, its ownership and any lease arrangements.

The applicant failed to provide sufficient information to establish the 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.

Insight stated that it will have a "Live Launch" program that requires students to attend a physical facility for the first five days of the school's opening for face-to-face instruction with teachers. Participation in "Live Launch" is mandatory and students who fail to participate will be marked as having an unexcused absence. Insight also stated in its application that it will have learning centers that provide in-person, direct instruction in Math and English at select locations. In addition, at the hearing it was stated that one type of learning center would be where students would attend on a regular basis. It was also stated that learning centers are a key element for students who need face-to-face time and that since teachers will be expected to meet with students 3-5 days per week, learning centers are critical to Insight's model. Insight also stated at the hearing that Philadelphia and Pittsburgh would be the initial focus for learning centers because Insight's market analysis shows that these areas have students seeking cyber education.

Based on information provided in Insight's application and at the public hearing, Insight 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 failed to provide proof of curriculum and assessment alignment to show that requirements of 22 Pa. Code Chapter 4 are met.

Insight showed no evidence in any of the subject areas of a complete curriculum framework that clearly describes content. At the public hearing, Insight representatives stated that they did not go into curriculum detail in their application. Insight did not include curriculum maps delineating courses to be offered and how they meet the requirements of 22 Pa. Code Chapter 4 (relating to academic Standards and assessment). Insight did not articulate how planned instruction aligned with academic standards would be provided at all grade levels. Insight plans to offer instruction for Grades 6-12 and the curriculum provided in the application was a course

catalog document provided by K12.com. Insight also did not provide any sample lessons or assessments aligned to the course work being offered. Lastly, Insight could not verify that any of the courses in the course catalog were aligned to PA Academic Standards or the PA Common Core Standards.

The applicant failed to provide sufficient evidence of an English as a second language (ESL) program.

Cyber charter schools are subject to Chapter 4 of the State Board of Education regulations. 22 Pa. Code Chapter 4. Section 4.26 of these regulations 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)*, pertaining to 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.

Insight failed to provide sufficient evidence of an ESL Program that is appropriate for the education of English language learners. While the application demonstrated some awareness of the need to address key components, it failed to provide specifics on how these would be implemented at Insight. In fact, Insight’s application stated that “if a need is established, Insight will consider acquiring and using third party courses to assist with English language acquisition...and a program will be designed.”

Moreover, in its application, Insight did not specify planned instruction for English language learners. The application also provided no evidence of a research-based program model for English language acquisition, and Insight representatives stated at the hearing that “they can’t speak to that.” Insight, in its application, failed to provide an ESL curriculum aligned to PA English Language Proficiency Standards and academic standards, and Insight representatives stated at the hearing that they did not have one “at this time.” The application also did not account for the number of courses or online time required for ESL instruction, and Insight representatives indicated at the hearing that a “plan is not in place.” Finally, Insight’s application did not adequately explain how academic content classes would incorporate the PA English Language Proficiency Standards and provide meaningful, comprehensible access to instruction, standards, and assessments.

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

Insight’s Professional Education Plan was limited to a description of how K-12’s Academic Services Group is going to provide ongoing professional development particularly in the areas of curriculum and instruction.

Insight failed to 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. At the hearing, Insight stated that it would include the K12 instructional division, head of school and lead teachers on the planning committee which would not be enough representation from all stakeholders. Insight failed to explain how the school will assess professional education needs, and the necessary professional education activities that will be provided in the interim startup phase of operation and/or the first three years of the schools operation.

In order to meet the professional development action plan, the school's activities must comply with the content area, teaching practices, and meet the needs of diverse learners. The plan must also explain how the school's professional education program will be evaluated to determine its effectiveness so that adjustments and changes can be made. Insight representatives stated at the public hearing that "there will be monthly meetings to determine how best to go about designing the professional development based on specific needs at that time." The representatives also stated that they will assess data that has been used and collected to measure whether the professional education program is meeting its established goals. Although these statements were helpful, Insight's lack of a Professional Education Plan, as described above, is a deficiency of its application.

The Insight representatives stated at the hearing that they were not familiar with the teacher induction guidelines. Insight failed to develop a Teacher Induction Plan that includes an induction coordinator and induction committee (Induction Council) consisting of administration representation, as well as teachers or educational specialist or both designated by their peers. Insight also failed to provide a plan that provides goals, competencies and an assessment process and failed to explain how a school induction team will be set up and how mentors will be designated and matched with the new teachers in a sustainable mentor-mentee relationship. At the hearing, the school stated how it would identify qualified teachers and bring those teachers on board, but that did not tell the Department how Insight would match those teachers as mentors. Insight failed to provide a plan that included a review of the Code of Conduct of Professional Practice and Conduct, as stated in 22 Pa. Code 235, as one of many activities and failed to provide an explanation of how the induction program will be monitored and evaluated along with how records relating to program participation and completion will be maintained.

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

(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. Insight failed to submit sufficient information to ensure compliance with the CSL's requirements concerning internet reimbursement.

Insight did not clearly state what its assumed monthly reimbursement amount would be per student, and the budget does not appear to include funds sufficient to reimburse student families for internet costs. A total of \$116,245 is included for "travel including travel to Learning Centers, telephone and internet reimbursement, printing and postage" (in function/objects 1100-500, 1200-500, 2100-500, and 2200-500). If there are 1,000 students enrolled in the first year, this amounts to approximately \$116 per student. Even if that entire amount were budgeted for internet reimbursement, this would amount to approximately \$12/month for 10 months. Since it includes travel, printing, and postage costs in addition to internet reimbursement, the actual amount assumed must be lower than \$12/month. In its application, Insight stated that an internet connection would be the parents' choice and that Insight would subsidize the cost. At the hearing, Insight stated that it would work with families for needed service, which might require satellite, and that the school would pay the additional costs for that service. Thus, the application, the budget and the testimony provide insufficient and conflicting information about the internet reimbursement that Insight intends to provide to its students.

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

Insight's application includes a budget for the first year of operations, but the start-up financing plan is not adequately described. The management agreement with K12 allows for advances from K12 to the school, and it appears that start-up costs will be financed by K12, with repayment (with interest) if advances are not repaid in 30 days. Insight has not clearly described the plan to finance start-up costs, including a start-up budget, estimated advance amount and estimated interest costs associated with the advance. Thus, it is not clear that Insight would have the necessary start-up capital to fund operations prior to the receipt of revenue.

(c) The applicant failed to provide clear and sufficient information about responsibility for the day-to-day finance and accounting operations.

It is not clear whether Insight or K12 would be responsible for day to day finance and accounting operations. A business manager or comparable position is not included in the budget. If those responsibilities, including accounts payable, accounts receivable, purchasing, and budget development/monitoring will be the responsibility of K12, it should be clear that the budget includes payments for those services.

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

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

Insight'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 Insight has developed at least some local capacity to provide services to students other than those whose needs can be met in the general education classroom. Insight is not required to have the full continuum built across every aspect of its local program; however, it must be able 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. In other words, as soon as a student requires a more intensive level of instructional support and resources, other than inclusion in the general education classroom or some pullout, Insight's answer seems to be to establish a contract with a private provider for services to that student.

- (b) *The applicant failed to demonstrate that it has sufficient resources established across the state to meet the needs of students with disabilities including special education service provision, transition planning for post-secondary education, employment, independent living and transportation as a related service.*

As a statewide cyber charter school, Insight would be required to accept students who reside anywhere within Pennsylvania. Insight acknowledged that it has not personally contacted any vendors at this point, but stated that it will rely on its partnership with K12 which has experience in locating and providing services to students with disabilities across the state. However, not enough sufficient resources have been established to verify that Insight has reached out to these vendors (at least a statewide sampling) to verify whether they are available and willing to provide services to Insight students, and that Insight has properly budgeted for their fees for services.

Additionally, the application does not address transition planning and the resources that Insight 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 will college visits and career days be addressed statewide, and what resources have been dedicated to life skills and independent living transition objectives. These 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 a plan that Insight has in place to ensure that transportation vendors or other resources are established who can provide transportation as a related service to students with disabilities when required as a part of their Individualized Education Program (IEP).

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

Insight failed to submit any policies or procedures in key required areas of special education which could demonstrate that it has a working knowledge of how special education operates and how it will implement these requirements within its program. Insight's application and presentation outlined some of how it intends to implement special education; however, without additional details it cannot be determined that Insight has a program and plan that meets both the federal and state requirements for the implementation of the Individuals with Disabilities Education Improvement Act (IDEIA). Key areas not addressed include but are not limited to: 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 provide an Acceptable Use Policy that addresses the terms and conditions for appropriate/safe network and equipment use.

An Acceptable Use Policy (AUP) and Internet Safety Policy were referenced in the application, but copies of the policies were not provided. Therefore, Insight failed to provide an AUP that addresses the terms and conditions for appropriate/safe network and equipment use and also meets the requirements for compliance with the Federal Children’s Internet Protection Act (CIPA) and PA Child Internet Protection Act (Act 197 of 2004). Insight failed to provide specifications as to the internet filtering software that would be used, as well as how it would be maintained and updated on all student machines. In addition, Insight failed to provide clarity about how it would address the need to install and maintain filtering software on non-school provided equipment, if non-school provided equipment is an option. During the hearing, Insight representatives indicated that the Board had not yet adopted an AUP or Internet Safety Policy.

(b) The applicant failed to provide sufficient information about the technologies that will be used to provide instruction.

In describing the equipment to be provided to students, Insight stated in its application that “Each student of Insight PA 6-12 will be loaned a laptop and printer with printer cartridges for the duration of their students’ enrollment in the school.” During the hearing, Insight representatives indicated that computers would be leased from K-12. However, Insight failed to provide specifications for the standard equipment that would be provided to all students. Thus, Insight failed to provide sufficient information for the Department to determine that the equipment would be able to effectively deploy all the synchronous and asynchronous resources that the school plans to provide to all students. In addition, Insight failed to define its technical support and repair/replacement procedures.

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

Broadband connectivity to the home 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. But some students in the state may live in areas not serviced with broadband to the home. Regardless of the connectivity available, no student’s cyber school education should be limited based on where they live. In the application, Insight states that “families will have the option to use the Internet connection of their choice. The school will subsidize the cost of their Internet service.” Also during the hearing, Insight representatives indicated that options such as satellite connections and air cards will be explored for students to have high speed access if only dial-up is available to the home. However, Insight did not

provide any formalized policies and procedures 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 may currently only have dial-up to the home. In addition, Insight failed to provide details as to how to service 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. Finally, Insight did not provide clear information about whether or not the school will cover the costs of all options for providing high speed access to students.

The applicant failed to explain how adjustments to an Individualized Learning Plan (ILP) will be determined.

During the hearing, Insight representatives indicated that five days a week of synchronous instruction will be provided for the first year. However, in subsequent years, a combination of synchronous and asynchronous instruction will be provided based on an Individualized Learning Plan (ILP). In addition, in the application Insight provided a chart showing the ratio of online materials to print materials by grade span and subject area. During the hearings it was identified that research was used to determine these ratios and that adjustments will be made based on the ILP. However, Insight failed to provide detail about the research and whether it evidenced that these ratios would be effective in providing students with sufficient growth to meet required achievement levels, particularly for those achieving at a year or more below grade level. Insight also failed to provide detail about the pedagogical reasoning that will be used to determine what resources and approaches will be provided to the students based on their ILP.

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 and failed to articulate measures to meet No Child Left Behind (NCLB) and Adequate Yearly Progress (AYP) goals.

Insight failed to demonstrate an in-depth understanding of the Department's Comprehensive Planning web application and all of the associated School Improvement Planning tools made available to all schools in the Commonwealth. In the application and at the public hearing, Dr. Thorne stated that he had a limited knowledge of the Department's Comprehensive Planning web application and associated planning tools; this indicates a lack of knowledge of what is actually required in the plan the Department provides to schools.

Insight failed to demonstrate any understanding of the ongoing dialogue the Department has with the U.S. Department of Education via the Accountability Workbook, which is updated at least yearly and contains critical information affecting all Commonwealth public schools. Insight 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. Information in the application appears to be more of a process than a coherent document addressing all the federal and state requirements and indicates a lack of knowledge of what is actually required in the plan.

On the Department's website there is significant information about the achievement levels of students on a statewide basis as well as in specific areas of the State by school district, Intermediate Unit, etc. Despite targeting specific student populations, even if only

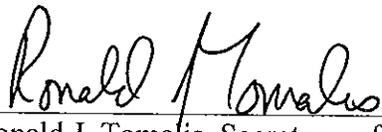
geographically at first, Insight did not evidence an understanding of the specific achievement needs of students who are likely to enroll, and therefore, failed to provide any information about how it expected to increase the achievement level of students so they would be achieving at least at grade level.

In the *Measurable Goals* section of the application, Insight sets the bar at making AYP. These are goals and targets that are set in legislation and Insight did not outline or explain in its application how it expects to meet these goals. There is no research, nor is documentation provided that demonstrates that the school will be able to meet AYP goals in the first few years, as stated in the application, particularly with the student population that is being targeted.

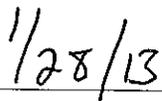
Conclusion

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

Insight 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, Insight 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