



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
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SECRETARY OF EDUCATION

717-767-5880

January 28, 2013

Ms. Margaret A. Gallagher
MB Resiliency Cyber Charter School of PA
1080 North Delaware Avenue
Philadelphia, PA 19125

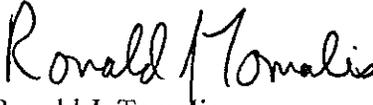
SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Ms. Gallagher:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the MB Resiliency 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

**The MB Resiliency 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 (the “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 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 MB Resiliency Cyber Charter School (MB Resiliency) submitted a timely application to operate as 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 denies MB Resiliency’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
- Teacher Induction
- Special Education
- Technology
- Comprehensive Planning

The applicant did not comply with applicable requirements.

(a) The applicant failed to demonstrate evidence of insurability.

A cyber charter school applicant is required to submit a description of how the cyber charter school will provide adequate liability and other appropriate insurance. MB Resiliency states in its application that it will provide certain types of insurance and that it will obtain the insurance from a particular insurance company. However, MB Resiliency failed to submit any evidence of insurability.

(b) The applicant's admission policy does not comply with applicable requirements.

All students within Pennsylvania qualify for admission to a cyber charter school. If more students apply to the cyber charter school than the number of attendance slots available in the school, then students must be selected on a random basis. MB Resiliency states that students in the Philadelphia School District will be able to apply first, then students in the closest surrounding district to Philadelphia will be able to apply second, and finally remaining students throughout the state will be able to apply last. MB Resiliency testified that if more students apply to the school than the number of attendance slots available in the school, then one-third of the students from each admission group would be admitted. Therefore, MB Resiliency failed to provide an admission policy that is in compliance with applicable requirements.

(c) The applicant failed to provide information concerning the ownership of all facilities and offices of its 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. MB Resiliency provided an address of an office in its application. However, MB Resiliency did not provide documentation concerning the ownership of the office and any lease arrangement associated with the office to permit the Department to confirm compliance with applicable requirements.

(d) The applicant failed to provide an explanation of the amount of on-line time required for students.

A cyber charter applicant must provide 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. MB Resiliency provided an example of a student's daily roster in its application. However, the daily roster does not clarify the required amount of on-line time or what portions of the roster would be carried out on-line and off-line.

(e) Conflicting names of entities are present within the application.

On the title page of its application, the applicant refers to the proposed cyber charter school as "MB Resiliency Cyber Charter School of Pennsylvania." On the Application Fact Sheet and throughout the body of the application, the applicant refers to the proposed cyber charter school as "MB Resiliency Cyber Charter School." The proposed Bylaws refer to the proposed cyber charter school as "MB Cyber Charter School." MB Resiliency must have one name for its entity and use the name of its entity consistently when making representations.

The applicant did not establish demonstrated, sustainable support for the cyber charter 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.

MB Resiliency discusses the various professional relationships that Shalom, Inc., the Founding Coalition of MB Resiliency, has with the government and community. Shalom, Inc. is a provider of high school-based drug and alcohol abuse prevention services. Thus, the relationships that Shalom, Inc. has formed over the years do not necessarily demonstrate sustainable support for MB Resiliency’s cyber charter school plan.

MB Resiliency states that the Board of Directors will send a letter to school districts statewide that explains MB Resiliency and requests student names who may benefit from MB Resiliency. No letters or petitions indicating current or ongoing support for the cyber charter school were included in the application.

MB Resiliency representatives read a letter of support from a local government official into the record at the public hearing. A minimum level of support from a discrete group is not a sufficient indication of support. *Montour School District v. Propel Charter School-Montour*, 889 A.2d 682 (Pa. Cmwlth. 2006). Thus, one letter of support from a local government official is not sufficient support to sustain and maintain the proposed cyber charter school on an on-going basis.

MB Resiliency has failed to provide any information that demonstrates support of the proposed charter school plan by teachers, parents or guardians and students.

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.

MB Resiliency's application describes the proposed cyber charter school as a "brick and click" model. At the public hearing, MB Resiliency representatives stated that not every child would need to attend a physical school facility, which it referred to as learning centers, but that learning centers would be essential for MB Resiliency's model to be completely successful. MB Resiliency representatives testified that it is important to have the combination of teaching online and teaching face-to-face on site. At another point during the public hearing, MB Resiliency representatives testified that teachers would be facilitating classes at the learning center while students access the curriculum on their hardware. The teacher would actively engage each child as the child works through the curriculum and direct them in ways that can lead them to more or

different knowledge or alternative learning experiences within the core curriculum. Additionally, MB Resiliency's application contains an example of a daily student roster with a designated lunch period. At the public hearing, MB Resiliency representatives further provided that MB Resiliency may provide food services to its students.

Although not all students would have access to its learning centers, MB Resiliency representatives testified that all students would receive the same technology and have access to the same curriculum platform. In addition, students who would not be able to physically participate in activities, such as field trips and open houses, would be able to do so virtually. However, MB Resiliency representatives were not able to identify the technology that would be used by students or the curriculum platform that would be used.

MB Resiliency would initially offer a learning center in Philadelphia because it would not be able to identify other locations until it knows where its student body is coming from. However, MB Resiliency plans to market on a statewide basis by using websites, mass mailing, billboards, train advertisements, and county fairs. Once MB Resiliency has knowledge of the geographic location of its student body, it will then contract with Intermediate Units to set up additional learning centers throughout the state. Additionally, MB Resiliency representatives stated they would contract with caseworkers and have these caseworkers make home visits to the students who would not be able or would not want to attend a learning center.

Based on information provided in MB Resiliency's application and at the public hearing, MB Resiliency 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.

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 publically accessible website. The Cyber Charter School Application requires that an applicant provide copies of the school's Articles of Incorporation (Articles), bylaws and contracts. In addition, pursuant to the CSL, a cyber charter school must be organized as a public, nonprofit corporation. MB Resiliency did not provide Articles in its application. Furthermore, MB Resiliency representatives testified that the entity has yet to register with the Pennsylvania Department of State. Because the CSL only permits the granting of a charter to a public, nonprofit corporation, the Department must have a copy of the Articles that have been fully executed and filed with the Pennsylvania Department of State so that the Department can verify that MB Resiliency is a public, nonprofit corporation.

In addition, MB Resiliency's application states that it will function as a 501(c)(3) organization. However, the CSL states that a charter cannot be granted to a sectarian school, institution, or other entity. Therefore, MB Resiliency's Articles cannot refer to "religious" as one of the

purposes for which the entity is organized when MB Resiliency executes and files Articles with the Pennsylvania Department of State.

(b) Bylaws.

MB Resiliency's Bylaws enable public officials and employees to be in a position to use the authority of his or her public office and employment in a manner that could result in private pecuniary gain to himself or herself. The Bylaws state that officers shall be members of the Board of Directors, that officers are not entitled to receive compensation for reason of their office, but officers may receive compensation for duties other than those as performed as an officer, and that the Board of Directors shall hire and fix employee compensation. MB Resiliency's representatives testified that officers may also be employees. Taken together, these provisions allow an employee, as a Board member and officer, to engage in decision making about his or her compensation.

MB Resiliency failed to identify any action that would be taken to ensure the avoidance of conflicts of interest in decision making concerning the school. Furthermore, recusal of officers from discussions and decision making on matters which raise the potential of a conflict of interest could result in several instances where the Board of Trustees would act without the guidance and input from the Board's President. MB Resiliency failed to provide any information concerning how these provisions were compatible with the proper operations of a public school, including the school's capability to provide support and planning for a comprehensive learning environment, and the duties of the Trustees to the corporation.

(c) Management Agreement.

The Commonwealth Court has stated that a charter school applicant must include in its application a finalized management agreement so that the charter authorizer can determine whether the Board of Trustees of the charter school will have ultimate control of the charter school. *See, School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Cmwlth. 2001). MB Resiliency did not include a management agreement in its application, let alone an intent to contract with a management company. Therefore, if MB Resiliency's cyber charter application is granted, it will be upon the assumption that MB Resiliency will not employ a management company. If MB Resiliency decides to hire a management company after its charter is granted, it will need to seek approval from the Department by applying for an amendment to its charter.

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

(a) The applicant failed to include accurate revenue and expenditure estimates within its budget.

The budget document submitted does not include revenue. Revenue estimates (based on assumed per pupil tuition rates and any anticipated grant funds) must be submitted with the application. During the hearing, MB Resiliency's representatives stated that they plan to use the per pupil rates from the School District of Philadelphia to estimate revenue. However, revenue

estimates should take into account the fact that the school will enroll students located throughout the Commonwealth.

The expenditures in the submitted budget are missing a number of anticipated costs. The budget includes only the cost of positions and professional development. Nothing is included for supplies and materials, contracted services, facility costs, student computers, staff computers, insurance, books, or any other basic costs. The budget does not include Special Education teachers or resources for ELL students. The budget does not include estimates for all anticipated operating costs.

The school's planned first year enrollment of 50 students does not appear to generate sufficient revenue for the expenditures identified in the application. With benefits, expenditures for staff alone total \$1.2 million. Per pupil revenue would need to average greater than \$24,000 to pay for staff only, and items missing from the budget would add significantly to that cost.

(b) The applicant failed to use the anticipated PSERS contribution rate in its budget.

The budget submitted with the application includes an assumed PSERS contribution rate of 6.28 percent. For the 2013-14 school year, the PSERS contribution rate is anticipated to be 16.93 percent.

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

No start-up budget was included. Furthermore, the school's plan to finance operations for at least four months prior to the receipt of revenue is not sufficient. The school intends to enroll students beginning in January 2014, but plans to hire staff in September 2013. During the period from September to at least January, the school will not receive revenue from school districts. At the hearing, a school representative stated that they would "seek funding through other sources" for that period. The application names several foundations from which the school intends to seek grant funding, but does not have a contingency plan to fund operations if they are not successful in raising sufficient funds to operate prior to the receipt of tuition from districts.

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

In review of the curriculum, MB Resiliency showed no evidence of a curriculum framework that clearly described content and only provided course descriptions. MB Resiliency did not include detailed curriculum maps delineating courses to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

MB Resiliency did not articulate how planned instruction aligned with academic standards would be provided at all grade levels in the areas of assessment and resources. MB Resiliency plans to offer instruction for grades 9-12, but did not provide sample lessons or assessments aligned to the course work being offered.

At the public hearing, MB Resiliency's representatives could not verify that any of the courses were aligned to PA Academic Standards or the PA Common Core Standards. MB Resiliency's representatives testified that curriculum alignment would occur when the Board is chosen.

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

MB Resiliency's application failed to provide sufficient evidence of an ESL Program. When asked for specific information about the plans for an ESL program, MB Resiliency representatives were unable to give specific details about how they would meet any of the regulations or requirements for an ESL program in Pennsylvania. Although the application states that an ESL program would be developed in accordance with state regulations, the application demonstrated limited awareness of the state requirements for the education of ELLs. When asked to supply details during the hearing, MB Resiliency's representatives provided an insufficient explanation of a process for identification and placement based on administration of a Home Language Survey, use of the W-APT for formal assessment, and consideration of multiple criteria for placement. MB Resiliency's representatives did not demonstrate any knowledge of Pennsylvania's required criteria for program exit, nor provide evidence of a plan to monitor progress of former ELLs for two years after exit.

MB Resiliency's application did not specify planned instruction for ELLs and provided no evidence of an instructional model based on sound educational theory, which allows for appropriate staff and resources, and is regularly evaluated using ACCESS and PSSA data. MB Resiliency's application provided no evidence of English language acquisition classes that deliver daily instruction based on proficiency level, using curriculum aligned to PA ELPS and PA academic standards in order to facilitate students' achievement of English proficiency. It failed to provide an ESL curriculum aligned to PA ELPS and academic standards. It did not account for the number of courses or online time required for ESL instruction. Similarly, the application contained no specifics on how academic content classes would provide meaningful, comprehensible access to instruction and standards and would incorporate the PA ELPS. Finally, MB Resiliency failed to provide a description of how it would ensure that the annual English language proficiency assessment (ACCESS for ELLs) were administered to ELLs and that ELLs participated in the annual academic assessments (PSSAs) as appropriate with accommodations.

The submitted budget did not include funds for an ESL teacher or any language instructional program related expenses.

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. MB Resiliency did not include a Professional Education Plan, including the professional development action plan, in its application. Furthermore, MB Resiliency's testimony represents only a portion of what is required to implement a Professional Education Plan. At the public hearing, MB Resiliency representatives stated that its Board of Directors would be responsible for establishing a committee. MB Resiliency representatives stated that the faculty would be responsible to attend a minimum of 10 hours of training per week.

A cyber charter school applicant must 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 designated by their peers. MB Resiliency failed to include a Teacher Induction Plan in its application.

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 and support staff resources to meet the needs of students with disabilities.***

MB Resiliency anticipates a 7:1 special education teacher-student ratio and stated that it would also make available a teaching assistant; however, the budget submitted does not reflect special education teaching staff, support services staff or other resources which would be allocated to provide special education and related services.

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

MB Resiliency'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. MB Resiliency representatives stated that the school is committed to what it calls "full inclusion" as the primary model for service delivery (MB Resiliency acknowledged that "full inclusion" is not Least Restrictive Environment for all students). However, no details were outlined in the application to address how the school intends to provide services for students with more complex learning, emotional and behavioral needs. Furthermore, MB Resiliency failed to demonstrate that it has a continuum of placement options for students

with disabilities across the state. The school's current focus is primarily based on serving students in the Philadelphia area, and the school acknowledged that it has not reached out to other areas as it anticipates that the majority of its students will come from the Philadelphia region. As a school serving students from across the state, MB Resiliency must be positioned to provide services to students outside of the Philadelphia region.

- (c) *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, MB Resiliency would be required to accept students who reside anywhere within Pennsylvania. MB Resiliency acknowledged that it has primarily focused on the Philadelphia region (The Youth Build Organization and the Office of Vocational Rehabilitation); however, it has not contacted vendors or resources outside of this region. The application fails to demonstrate that sufficient partnerships across Pennsylvania have been established by MB Resiliency (at least a statewide sampling) to verify that they are prepared to service students with disabilities, and that their fees for service have been properly budgeted for by MB Resiliency. Additionally, the application does not address transition planning and the resources that MB Resiliency has established statewide to address post-secondary education, employment and independent living. 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 are expected to 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 MB Resiliency 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) in and outside of the Philadelphia region.

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

MB Resiliency failed to submit any policies or procedures in key required areas of special education which would demonstrate that it has a working knowledge about how special education operates and how it will implement these requirements within its program. MB Resiliency's application and presentation offered a partial outline of how it intends to implement special education; however, without additional details it cannot be determined that MB Resiliency has a program and plan which meets both the federal and state requirements for the implementation of 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 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. In its application, MB Resiliency states that it will provide internet access for qualifying students. No further explanation of this statement was found in the application. MB Resiliency failed to submit sufficient information to ensure compliance with the CSL's requirements concerning internet reimbursement.

- (b) *The applicant failed to provide an Acceptable Use Policy and an Internet Safety 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 on page 24 of the application, but copies of the policies themselves were not provided. Note that an AUP must meet the requirements for compliance with the Federal Children's Internet Protection Act (CIPA) and PA Child Internet Protection Act (Act 197 of 2004). AUPs address the terms and conditions for appropriate/safe network and equipment use. During the hearing, MB Resiliency representatives indicated that the Founding Coalition and the Board has not yet adopted an AUP or Internet Safety Policy. However, copies of both an AUP and Internet Safety Policy need to be provided.

- (c) *The applicant failed to provide sufficient information concerning filtering of content for minors.*

During the hearing, MB Resiliency representatives indicated that an IT Specialist needed to be hired to develop an Internet Safety Policy and implement processes for filtering content. Specifications need to be provided as to the internet filtering software that will be used, as well as how it will be maintained and updated on all student machines.

- (d) *The applicant failed to provide sufficient information about the technology that will be used to provide instruction.*

A cyber charter school applicant must include a description of the technology, including hardware and software, equipment and other materials, which will be provided by the cyber charter school to its students. Within the application, minimum specifications were provided for equipment, but it did not mention the specific equipment to be provided to its students. In addition, no details were provided as to the technology platform, Learning Management Systems, or the Student Information System to be used. MB Resiliency representatives were not

able to provide this information at the public hearing. Therefore, MB Resiliency failed to provide sufficient information about the technology it will provide to its students.

- (e) The applicant failed to provide sufficient information as to the technical support that will be available to students and parents or guardians.*

A cyber charter applicant must include a description of the technical support that the cyber charter school will make available to its students and parents or guardians. Details on technical support are provided on pages 21 and 22 of the application. However, MB Resiliency failed to provide sufficient detail as to the level of support and the hours during which technical support would be available to students and parents or guardians.

Additionally, the application states, "a partnership is being forged with Drexel University," which will include "technical support, hardware and software and additional personnel support services." MB Resiliency did not include an agreement, a draft agreement, or any other document that evidences a commitment with Drexel University. Therefore, there is no evidence that Drexel University is committed to providing technical support to MB Resiliency.

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

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, some students within the Commonwealth may live in areas not serviced with broadband. Regardless of the connectivity available, no student's cyber charter school education should be limited based on where they live. The cyber charter school must ensure that an equitable, timely education experience is provided to all of its students. MB Resiliency did not address broadband considerations in its application or at the public hearing. MB Resiliency failed to include established policies and procedures as to the specific broadband requirements for students, including options for students who only have dial-up connection. MB Resiliency failed to provide an explanation as to how the cyber charter school will serve students who are not able to obtain alternate high speed options.

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 that would be taken to meet No Child Left Behind (NCLB) and Adequate Yearly Progress (AYP) goals.

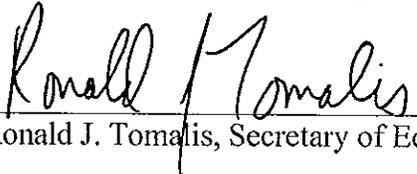
MB Resiliency representatives failed to demonstrate any understanding of the ongoing dialogue that the Department has had with the U.S. Department of Education relating to the Accountability Workbook, which is updated at least yearly and contains critical information affecting all Commonwealth public schools. MB Resiliency 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 MB Resiliency's stated lack of familiarity with the Department's planning process, a plan to ensure that all federal and state requirements will be met was not presented in the application or at the public hearing.

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, MB Resiliency representatives failed to demonstrate an understanding of specific achievement needs of students likely to enroll in the school. MB Resiliency's application lacks information on any unique strategies that would be offered to address the extraordinary gains needed to achieve the NCLB thresholds.

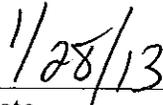
Conclusion

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

MB Resiliency 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, MB Resiliency 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