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

SECRETARY OF EDUCATION 717-787-5820

January 28, 2013

Ms. Lupe Pearce
PA Career Path Cyber Charter School
462 West Walnut Street
Allentown, PA 18102

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Ms. Pearce:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the PA Career Path 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 Tomalis

Ronald J. Tomalis

Enclosure

Pennsylvania Department of Education Decision

Pennsylvania Career Path 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 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.

Pennsylvania Career Path Cyber Charter School (PA Career) submitted a timely application to operate as a cyber charter school. The Department provided 30 days notice of a public hearing that was held on November 29, 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 PA Career's application. Deficiencies were found in the following areas:

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

The applicant did not comply with applicable requirements.

(a) 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. PA Career states

in its application that it will provide certain types of insurance and that it will obtain the insurance from particular insurance companies but during the hearing a school representative stated that they had not approached those companies. PA Career has not provided any letters of intent or evidence of insurability regarding types of coverage or estimates of costs. Without this information the Department cannot determine that PA Career can obtain appropriate and adequate insurance or that it has a reasonable estimate of the costs of such insurance.

(b) Criminal Record History and Child Abuse Clearances provided in the application are not timely.

Although PA Career provided criminal records history reports and child abuse clearances for certain individuals, the reports and clearances were issued more than one year ago. In the event a charter is granted to PA Career, any employees who would have direct contact with children, including contact through electronic means, must provide such reports and clearances that are no more than one year old.

(c) The applicant failed to provide sufficient information about insuring the authenticity of student work.

The CSL requires an applicant to provide the methods to be used to insure the authenticity of student work. At the hearing, PA Career stated that it did not have any software program to help detect plagiarism but that teachers at an existing school used some web-based solutions and those would be leveraged. Thus, there would not be an automatic system used to detect plagiarism; but it would be at the discretion of an individual teacher to detect and implement any measures the teacher may feel necessary on an individual student basis. Particularly since this is a cyber charter school and much of the work is done without direct teacher supervision, PA Career has not provided sufficient information by which the Department can determine that it will detect plagiarism and appropriately authenticate student work.

(d) The applicant failed to adequately address payment for certifications related to career path programs.

One of the purposes of PA Career is to have its students certified in a technical area upon graduation. To some degree, student success depends on exams from outside entities, e.g., Microsoft, and some require multiple exams in order to achieve the certification. However, PA Career stated that it would only pay for the costs associated with these types of exams one time and not for each time an exam is taken. Thus, it is not clear whether PA Career will not pay for all the exams necessary for a particular certification, or that it will not pay if a student initially fails an exam and must retake the same exam in order to receive certification. In addition, PA Career did not include expenses for these exams in its budget.

(e) The applicant's reference to another charter school is inappropriate.

In its application, PA Career states that "staff at Roberto Clemente Elementary Charter School will encourage and support all students as we do in middle school and high school." In addition, it is stated in the application that PA Career "currently uses several best practices and instructional approaches that we will continue implementing in the elementary school." Since

PA Career is not an operating school, it is not clear how it is currently using several best practices or how it will continue implementing them in the elementary school when it is proposing to operate a school for grades 6-12. These references to another charter school are inappropriate.

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

(a) The Bylaws evidence that the cyber charter school will not be an independent entity but an actual or de facto subsidiary of another entity.

In its Bylaws, PA Career states that there will be seven members of the Board of Trustees. Three of those members will be appointed by the board of the Hispanic American Organization (HAO) and that those so appointed may be members of the HAO board. The remaining four members will be elected by PA Career's Board of Trustees. Although the HAO is the founding organization of PA Career, having three members of PA Career's Board of Trustees appointed by HAO and having such members also serving as members of the HAO board creates a potential conflict of interest. In addition, if HAO appoints three of the PA Career board members and then those members elect the remaining four members, it is difficult to view PA Career as an entity independent from HAO.

PA Career must be an independent non-profit corporation and not a subsidiary of, or controlled by, another corporation or organization. Having three members of PA Career's Board of Trustees appointed by HAO and possibly also being board members of HAO, as well as having those members elect the remaining four members to the PA Career board, does not evidence that PA Career will be independent of HAO. In addition, the facility in which PA Career is to be located is owned by HAO, which creates further potential conflicts of interest.[1] PA Career must evidence that it is a truly independent non-profit corporation and not an actual or *de facto* subsidiary of HAO or controlled by HAO.

Also, the miscellaneous section of the Bylaws provides the manner in which any remaining assets of the corporation are to be disposed upon dissolution of the corporation. However, this language does not comport with the CSL that provides how any remaining assets of a cyber charter school are to be disposed upon dissolution.

(b) The cyber charter school cannot operate a dual enrollment program.

PA Career states in its application that its students will be able to take classes at community and technical colleges and earn college credits as well as high school credits for graduation. However, cyber charter schools are not authorized to enter into agreements with institutions of

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[1] The lease between HAO and PA Career is signed by Lupe Pearce on behalf of PA Career as the lessee. However, in a Mutual Confidentiality Agreement between E2020, Inc. and HAO, Lupe Pearce signed as the CEO of HAO. This further supports the Department's concerns that PA Career is not independent of HAO.

higher education to allow students to take college courses and earn both college and high school credits. Section 1525 of the Public School Code authorizes school districts to enter into such agreements with institutions of higher education but that authorization is not extended to cyber charter schools. Therefore, PA Career cannot enter into agreements with institutions of higher education for its students to take classes at such institutions and receive higher education and secondary education credits.

(c) PA Career cannot offer adult training and education programs or GED preparation courses.

In its application, PA Career states that it will provide personal development training to parents. In addition, PA Career proposes to offer GED preparation courses to community members and to place an emphasis on, among other things, adult education. PA Career intends to use equipment purchased by PA Career and located at its learning center for a GED program. Also, teachers would be hired by PA Career to teach the GED courses.

Although a commendable objective, providing training and/or GED courses and/or adult education to community members is not the purpose of a cyber charter school. A cyber charter school is to provide educational services to enrolled students and the CSL requires that a cyber charter school receive and disburse funds for charter school purposes only. Using cyber charter school funds for parental training and/or GED courses and/or adult education is not using cyber charter school funds for cyber charter school purposes. In addition, using cyber charter school funds to hire teachers to teach GED courses and allowing persons other than enrolled cyber charter school students to use equipment purchased by the cyber charter school is also not using cyber charter school funds for cyber charter school purposes.

(d) Employment of teachers.

At the hearing, PA Career stated that the seven teachers teaching the career courses would be employees of E2020, Inc. (e2020). In addition, it was initially stated that e2020 would have the authority to hire, fire and supervise their teachers. However, in response to further questioning, it was stated that there would be a partnership between PA Career and e2020 and that PA Career would have the final decision about what teachers e2020 hired, although there is currently no finalized agreement.

Thus, although PA Career and e2020 provided some information at the hearing about the teachers to be used at PA Career, they did not provide a copy of any written agreement between PA Career and e2020. Without a written agreement to review, the Department cannot make proper determinations about whether such an agreement would be in compliance with applicable law. In addition, 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).

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.*

The only documents provided as evidence of sustainable support are letters from two community organizations, two universities, and the Roberto Clemente Charter School. There are no letters of support or signed petitions evidencing support from parents, students or teachers. At a minimum, there must be signed documentation from a sufficient number of people to evidence sustainable support of the cyber charter school plan by showing that the proposed cyber charter school can be sustained and maintained as an on-going entity. Thus, the applicant failed to demonstrate sustainable support for the cyber charter school plan.

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 "<u>the</u> 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.

PA Career stated in its application that it will "use computer-assisted instruction as a supplement and not as a replacement for traditional teacher-directed instruction." It is also stated in the application that students will be able to participate in person at the learning center while teachers present live lessons via the Internet to students across the state. In addition, at the hearing, PA Career stated that the learning center is very, very important to its proposed blended learning model and that the focus of the cyber charter school would be the Allentown, Easton, Bethlehem area.

In addition, there are references in the application to classroom management strategies, statements that parents and community members will be invited to the school frequently, and that there will be open houses and frequent building tours. Further, it is stated that students must wear proper and clean uniforms and bring all school supplies to the school or they cannot remain in the school building. It is also stated that administrators and teachers will assure that school time is used for learning. Within this category, it is further stated that administrators and teachers are to keep unassigned time and time spent on non-instructional activities to a minimum

during the school day and keep loudspeaker announcements brief and schedule them for minimal interference with instruction. Administrators and teachers are also to provide a pleasant physical environment for teaching and learning, which includes keeping physical facilities clean and reasonably attractive and arranging for hallways and classrooms to be cheerfully decorated.

Based on information provided in PA Career's application and at the public hearing, PA Career 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 ensure that some of its proposed policies would be in compliance with the Family Educational Rights and Privacy Act (FERPA).

In its application, PA Career states that it will give school districts a report of attendance, absences, enrollment and withdrawal in a monthly report. However, attendance and absence records of individual students constitute education records and FERPA protects the release of education records unless a parent provides a signed consent allowing release of the record. Although there are exceptions to the parental consent provision, a student's resident school district is not automatically authorized to receive a student's education records when the student is enrolled in the charter school. Thus, PA Career cannot automatically provide education records of its students to the students' resident school districts, which could be in violation of FERPA. PA Career failed to ensure that its policies and procedures regarding release of student education records are in compliance with FERPA and its implementing regulations.

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

In review of the curriculum, PA Career showed no evidence in any of the subject areas of a complete curriculum framework that clearly describes content. When asked if there was curriculum in the application, the applicant stated that e2020 will be providing curriculum and the learning management system for the school. The only curriculum documentation provided was for English, math, science and social studies and this only indicated lesson title and standard text. The applicant 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). PA Career did not articulate how planned instruction aligned with PA Academic Standards or PA Common Core Standards will be provided at grade levels. PA Career plans to offer instruction for Grade 6-12 but also did not provide any sample lessons or assessments aligned to the course work being offered.

(a) The applicant failed to clearly identify the career and technical programs to be offered.

Within the application, it is unclear as to which career programs will be offered through PA Career. During the hearing it was discovered that trade programs (such as carpentry, welding, etc.) would not be offered as they require students to obtain hands-on experience with the equipment necessary to prepare them to be successful in internships and co-op programs in these types of areas. PA Career did not provide specificity regarding which career and technical

programs will be offered or an appropriate scope and sequence for these programs.

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

22 PA Code § 4.26 provides 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.

PA Career's application demonstrated awareness of most of Pennsylvania required key components of an ESL Program. The application provided minimal evidence of the following: a process for identification and placement, a plan for implementing Pennsylvania's required criteria for program exit, and a plan for monitoring progress of former ELLs after exit. The application also established a research-based program model for planned instruction for English language learners and specified daily instructional hours based on proficiency level.

However, PA Career's application failed to provide an ESL curriculum aligned to PA English Language Proficiency Standards (ELPS) and academic standards and did not account for the number of courses offered. While the application mentions the High Point series, the spokesperson at the hearing referred to the National Geographic Bridges Program; thus, it remains unclear what language skills are being addressed as part of ESL instruction and what resources are being utilized.

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. Although representatives of PA Career stated at the hearing that they were familiar with the Act 48 Professional Education plan guidelines, they did not submit a sufficiently developed Professional Education Plan. PA Career's Professional Education Plan was limited to a description of how the school will utilize e2020's professional development implementation plan which comes in three phases; pre-implementation, implementation and roll out.

Although the representatives provided some additional information at the hearing, there is not sufficient information about how the school will assess the 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. There was also insufficient information provided about how the professional education plan will be evaluated so that adjustments and changes can be made.

PA Career must develop a Teacher Induction Plan that includes goals and competencies and an assessment process. The plan must also include a review of the Code of Conduct of Professional Practice and Conduct as stated in 22 Pa. Code 235 as one of many activities. Although the representatives stated at the hearing that they will have professional development activities, they did not include what the activities will be and did not sufficiently address how the induction program will be monitored 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's revenue estimates may not be appropriate.

According to hearing testimony of school representatives, the per-pupil revenue rates used to develop the budget were $10,000 for non-special education students and $15,000 for special education students. A school representative stated that these were based on approximate statewide averages, slightly discounted "to be conservative." For 2012-13, the non-weighted statewide average for non-special education students is $9,401, and the average for special education students is $19,173. Depending on the percentage of special education students enrolled, the school may actually be overestimating revenue.
A school developing revenue estimates could weigh the averages based on:

- Current distribution of ADM among all districts in the Commonwealth
- Anticipated distribution of the cyber charter school's enrollment
- Distribution of enrollment in a comparable existing cyber charter school

Further analysis should be done to determine whether the $10,000 and $15,000 per student revenue assumptions are appropriate to use.

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

The application does not include a plan for start-up financing prior to the receipt of revenue. Section IV of the application includes the statement, "PA Career Path Cyber Charter School will request a line of credit to ensure that the Cyber Charter School can meet expenses until a significant fund balance is reached." During the hearing, a school representative stated that the school had not yet approached a bank to inquire about a line of credit. The only other potential source of start-up capital identified was the initial federal grant for charter schools, and a school representative later stated that they may approach foundations for donations. Thus, it is not clear that PA Career would have the necessary start-up capital to fund operations prior to the receipt of revenue.

(c) The applicant did not submit sufficient information about purchasing policy.

The purchasing policy submitted does not include specific dollar amounts for purchases above which bids must be secured, or above which Board approval must be obtained.

(d) The applicant failed to clearly identify assumptions related to travel costs.

It is unclear whether the school has budgeted sufficient expenditures for transportation and travel costs. The budget includes $15,000 for "field trips" and $30,000 for "Professional Services" for special education, a portion of which a school representative stated are allocated for special education transportation costs.

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

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

PA Career'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. PA Career's application states that they "plan to provide a full inclusion program," and when questioned about the continuum of placement options, examples of occupational and speech therapy services were given as possible contracted services. Neither the application nor the presentation at the hearing addressed the school's local capacity to provide services to students with more severe learning or behavioral needs (Autism, Emotional Support, Life Skills Support, etc.). PA Career 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 can provide services to students whose learning needs require more than "full inclusion."

(b) PA Career 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, PA Career would be required to accept students who reside anywhere within Pennsylvania. PA Career's initial efforts focus on the Allentown-Bethlehem area as its initial base because PA Career anticipates this is the area from which it will receive the majority of their students. PA Career also indicates that the only intermediate unit (IU) with which it has made contact is IU 21, but that as enrollment expands so will its outreach. PA Career has not demonstrated that it is has established relationships with a sufficient sample of statewide resources to meet the needs of students with disabilities. Additionally, the application does not address transition planning and the resources that PA Career 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? In fact, PA Career stated, "we will talk to the IUs so

that they can make recommendations of what types of providers are in the area for transition plans". 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 a plan that PA Career has in place to ensure that transportation vendors or other resources are established that can provide transportation as a related service to students with disabilities when required as a part of their Individualized Education Program (IEP).

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.

Elements of an Acceptable Use Policy (AUP) / Internet Safety Policy were found in the application, but a formalized, board adopted policy was not provided. 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), and must address the terms and conditions for appropriate/safe network and equipment use. During the hearing, PA Career representatives indicated that the Board has 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.

During the hearing PA Career representatives outlined the use of virtual desktop technology to provide a standard "image" for all equipment within the school. This provides a level of standardization for software and internet filtering software. Appendix E of the application addresses the hardware and software specifications required to utilize the e2020 system; however, it is unclear what specific equipment will be provided and how it will support the virtual desktop environment. Specifications for the student equipment were not provided.

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

Appendix E of the application outlines the technical support that e2020 will be providing. However, it is unclear whether this technical support extends to the actual equipment. Details were not provided about how PA Career will provide the necessary level of support to address all the technical needs of it students.

(d) 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. 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. Appendix E of the application states that broadband is "preferred" for e2020 system. During the hearing, PA Career representatives indicated that a $50.00 per month reimbursement will be provided for Internet access. Also, during the hearing, PA Career 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, PA Career did not provide 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, details were not provided as to how to serve 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, it was not clear whether or not PA Career 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.

PA Career 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, PA Career mentions a school improvement plan in a general way and states its intentions to comply but does not demonstrate an understanding of the current process.

PA Career failed to demonstrate any understanding of the ongoing dialogue between the Department and 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. At the hearing, PA Career's responses to the questions asked directly about the accountability workbook indicate a lack of knowledge of the document and how it works to form policy. PA Career 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.

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, PA Career 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.

At the hearing, in referring to the ability to provide accommodations for testing, Dr. Robert stated that "We sort of select [sic] Allentown and Bethlehem as our first year...." It was not made clear in the application or at the hearing what the performance levels or estimated student needs are in these areas or in any other enrollment pools from which PA Career may draw students. In the application, PA Career mentions specific needs of students but provides no overall view of current performance levels of the particular subgroups mentioned in the start-up area or any other area of the Commonwealth.

Under "Academic Objectives" in the application, several goals are mentioned with only a passing reference (8th bullet in a list) to the No Child Left Behind Act (NCLB) without offering any information about the current gap of likely enrolled students and of the required 100 percent proficiency performance levels in the first year of operation. In a section titled "NCLB Objectives," only general statements are made about meeting the required objectives as well as a listing of specific interventions. There is no demonstration of any real understanding of the formidable challenge presented in bringing students up to grade-level in the first year of operation. Furthermore, there is no reference to any research regarding the interventions listed and no differentiation between what is used in a "traditional" school and what will be used in this cyber charter school. There is mention in the application of specific subgroups of student populations that are targeted but there is no evidence of an understanding of the current performance levels and the research-based strategies to promote the extraordinary growth required to meet the NCLB thresholds in the first year of operation.

Conclusion

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

PA Career 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, PA Career 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 Tomalis

Ronald J. Tomalis, Secretary of Education

1/28/13

Date