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

SECRETARY OF EDUCATION 717-787-3820

January 28, 2013

Mr. Nathan D. Byler
V3 Cyber Charter School
1801 Oberlin Road
Middletown, PA 17057

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Byler:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the V3 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

Ronald J. Tomalis

Enclosure

Pennsylvania Department of Education's Decision

V3 Cyber Charter School
2012 Cyber Charter School Application

Background

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

V3 Cyber Charter School (V3) submitted a timely application to establish a cyber charter school. The Department provided 30 days notice of a public hearing 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 29, 2012 public hearing, the Department is denying V3's application. Deficiencies were found in the following areas:

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

The application did not comply with applicable requirements.

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

The CSL authorizes the Department to develop forms necessary to carry out the provisions of the CSL applicable to cyber charter schools. On an annual basis, the Department posts a Cyber Charter School Application document on its publicly accessible website. For applicants seeking

to begin school operations during the 2013-2014 school year, the Department posted a 2012 Cyber Charter School Application.

In its application, V3 includes a draft "Student Handbook" document dated for the 2011-2012 school year – two school years prior to the expected opening of the proposed school. The document does not evidence that V3 has properly reviewed and revised the document. The document also refers to the V3 Academy; however, the applicant is the "V3 Cyber Charter School."

(b) Proposed joint/dual delivery of curriculum at cyber charter school and school district was not clearly explained.

In its application, V3 states it will partner with school districts to allow students to take courses at both the cyber charter school and the student's resident district. During the public hearing, V3's representatives also explained various ways in which a student enrolled in V3 could receive partial instruction in a school in the student's resident school district or in which a student enrolled in the student's resident school district could receive partial instruction from V3. Relationships between cyber charter schools and other public schools may exist, provided: 1) the schools (charter and public school district) agree on the per course amount and any transportation issues that may arise; 2) the course is either not offered by the school of record or does not fit into the students' schedule; and, 3) the courses are not core courses. V3 failed to provide sufficient information to demonstrate compliance with these requirements.

(c) Proposed partnerships with institutions of higher education, charter schools and other entities were not clearly explained.

In its application, V3 states it will offer students opportunities to obtain college credits through partnerships with blendedschools.net and Seton Hill University. A cyber charter school is not permitted to enter into agreements with institutions of higher learning to offer students dual enrollment opportunities. Based on the above, V3 failed to provide sufficient information to explain how students would be able to obtain college credit for courses completed at V3.

(d) Evidence of insurability was not submitted.

The CSL requires that a cyber charter school applicant submit a description of how the school will provide adequate liability and other appropriate insurance. V3 generally describes the types and levels of insurance it intends to procure and includes a letter from an insurance agency that states it has engaged in a review of the available insurance offerings from different providers. V3 failed to submit any evidence of actual insurability

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

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

sufficient to sustain and maintain the proposed charter school as an on-going entity." *In Re: Ronald H. Brown Charter School,* CAB No. 1999-1, p. 18.

(a) Existing or prospective members Board of Trustees were not identified.

V3 states that upon approval of the charter application by the Department, V3 will recruit a Boards of Trustees to govern the school. V3 further states the individuals identified constituting the "founding coalition" of V3 will meet with the Board of Trustees or a committee agreed to by the Board at least four times during the school year.

Individuals identified as the "founding members" of V3 stated no members of the Board of Trustees had been selected as of the date of the hearing and it was unknown whether any of the founding members would serve in any continuing role with V3 following approval of the charter. Four of the five individuals identified as founding members of V3 are current employees of a school district and the fifth is a member of a board of school directors. The founding members present at the public hearing could not provide any response concerning their continued employment with the districts if V3's charter application was approved.

Without any information concerning the individuals that would constitute V3's Board of Trustees or the continuing role that the founding members of V3 would have with the school and its Board of Trustees, V3 failed to demonstrate it has clear support sufficient to sustain and maintain the proposed charter school as an on-going entity following approval of the charter.

(b) Insufficient evidence of community support was included with the application.

V3's application includes nine letters as support for the cyber charter school. Five of the letters are from V3's founding members, three letters are signed by members of the Pennsylvania General Assembly, and one letter is from a high school educator.

All of the letters are dated September 2010, more than two years from the date of submission of the application. No recent letters indicating current or ongoing support for the cyber charter school were included in the application. At the public hearing, V3 stated it did not have any more recent letters to demonstrate current or ongoing support for the cyber charter school.

A review of the three letters signed by members of the Pennsylvania General Assembly revealed inconsistencies between statements in the letters and the information included in V3's application and as provided during the public hearing. During the public hearing, V3's founding members stated the three letters signed by members of the Pennsylvania General Assembly related to another school or program and should not be considered for V3's current application.

A review of the letter from the V3 founding member that serves as a school district board member also revealed inconsistencies between statements in the letters and the information included by V3 in its application and as provided during the public hearing and the requirements for cyber charter schools.

No other letters in support of the school or its application were submitted.

The petitions submitted with the application were undated and included little information to evidence the necessary support for the cyber charter applicant. The petitions also fail to disclose the geographic location of the individuals that signed the petition. As a cyber charter school, the applicant would be required to enroll students from a state-wide population. The success of the cyber charter school will be largely dependent on its ability to enroll students from across the state and provide services, including those dependent on community support, to those students. V3 did not submit evidence of ongoing support for the cyber charter school in that statewide community. V3's application states petitions of support would be submitted following the submission of the application. The Department will not consider documents from the applicant that were not submitted with the application or by the application deadline.

V3's letter to districts, a copy of which was submitted with its application, also includes statements and information inconsistent with other information in V3's application and as provided at the public hearing. Further, the letters to districts include statements and information that are inconsistent with the requirements of the CSL and other requirements applicable to cyber charter schools, including statements concerning the development of partnerships between V3 and district and the costs to districts for students enrolled in V3. These inconsistencies evidence that any support obtained by V3 based on those letters would not be appropriate for proper operation of a cyber charter school.

V3's application also references a survey of 2009 graduates completed in 2010. The information concerning the survey, as included in the application, failed to demonstrate how the survey evidenced support for the applicant. Additionally, the survey was completed more than two years ago and did not consist of information provided by current students, parents or teachers. V3 failed to demonstrate it has clear support sufficient to sustain and maintain the proposed charter school as an on-going entity following approval of the charter.

(c) Insufficient evidence of financial support.

In its application, V3 references its finance section as evidence of sustainable support. In its Finance and Facility submission, V3 states that its proposed expenditures only require the use of tuition paid by the sending districts. However, V3 also states initial funding for the school will come from donations and any available state and/or federal grants.

V3 failed to provide sufficient information concerning how the applicant arrived at the first year enrollment and student tuition amounts included in the application. During the public hearing, V3's founding members explained the per student tuition was developed through a review of invoices submitted by charter schools to a single district, and did not consider different rates applicable to different districts or whether a student qualified for special education services. Additionally, during the public hearing, V3's founding members stated they may need to "charge a little extra" for special education students, which revealed a lack of an understanding on the part of the applicant concerning the charter school funding formulas set forth in 24 P.S. § 17-1725-A(a)(5). V3's founding members further stated the projected enrollment figure was determined based on a calculation of how many students the school would need to enroll at the average tuition rate used by the applicant in order for the school to meet expenditures. V3 did

not conduct an appropriate analysis of the potential student enrollment for calculating student tuition reimbursements to the cyber charter school.

V3 also failed to provide adequate information concerning private donations and state and/or federal grants that were expected as initial funding. No information was provided concerning which state and/or federal grants V3 would apply for. Further, V3 would not identify any financial and in-kind services donors, despite a statement in the application that the donations would be submitted for the Department's approval.

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 "<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.

In its application, V3 includes information concerning a "blended education." The information provided by V3 in its application and at the public hearing support that V3 intends to provide instruction at a physical school facility to be located in or in the vicinity of Middletown, PA, and that this instruction would not or may not be available to students that did not find that location geographically accessible. At a minimum, V3 failed to provide information in its application or during the public hearing to explain how a student that was not in a geographically accessible location to the physical school facility where instruction or other school activities or offerings would be provided would be able to receive or participate in that instruction, activity or offering.

Based on information provided in V3's application and at the public hearing, V3 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) Bylaws.

Article VIII, Paragraph 2 of V3's bylaws states the President of the corporation shall be chosen from among the members of the Board of Trustees. Article VIII, Paragraph 4 of the bylaws states the President shall be the chief executive officer (CEO) of the corporation. In its application, V3 identifies the CEO as a paid employee of the school with an expected annual salary of $175,000. Article VI, Paragraph 4 of the bylaws states a Trustee shall receive no salary

or compensation for services as a Trustee. At the public hearing, V3's founding members were unable to identify any actions necessary to ensure the avoidance of conflicts of interest in decision making concerning the school, including employment and compensation decisions relating to the school's CEO or other employees or contractors. Recusal of the President/CEO 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 of the Board's President and school's CEO.

Article V, Paragraph 3 of the bylaws also limits the term of office of each Trustee, including the President, which would serve as the CEO. Additionally, Article VIII, Paragraph 3 of the bylaws provides for terms of the corporation's officers, including the President. This results in the potential for regular change in the school's CEO. V3 failed to provide any information concerning how these provisions were not incompatible 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.

(b) Evidence of independence of the cyber charter school applicant is lacking.

Cyber charter schools are independent public schools that are established and operate under a charter issued by the Department. A cyber charter school shall operate independently from the existing school district structure. Applicants seeking to begin school operations during the 2013-2014 school year must complete the 2012 Cyber Charter School Application posted on the Department's website. This Application form is developed to obtain information from the cyber charter applicant to ensure a thorough review in accordance with requirements of the CSL.

In its application, V3 regularly refers to the applicant as a "district" or component of a district. However, V3 also submitted documents to identify the applicant as a separate non-profit entity. V3 did not provide sufficient evidence that it is prepared to operate as an independent entity.

(c) Discounts to school districts are not permitted.

In its application V3 includes information to describe plans to collaborate with school districts to enroll students from the districts in V3 and educate those students at a lower cost to the districts than other charter schools. Reimbursement for charter schools is computed based on a statutory formula. During the public hearing, V3's representatives presented testimony that evidenced an intention to depart from the statutory charter school funding provisions, including a statement that V3 may need to charge a school district "a little more" to educate a special education student. A cyber charter school is prohibited from providing discounts to school districts and, except for the provision of specific services, from entering into agreements to provide funds to another school entity. V3 failed to provide sufficient information to demonstrate an understanding of and compliance with the CSL's charter school funding requirements.

(d) Disposition of school funds and property following school dissolution.

Upon the dissolution of a cyber charter school, any remaining assets of the cyber charter school shall be disposed of in accordance with 24 P.S. § 17-1741-A(a)(3)(i). Article 13 of V3's Articles

of Incorporation does not fully incorporate these requirements and provide for the disposition of remaining assets to alternative entities.

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

During the public hearing, V3 stated it was partnering with blendedschools.net for curriculum and other services and also identified other partnerships that would assist the school in providing services for its operation and for its students. The application did not provide detail concerning the role these other entities would have in the operations of the school or what services would be provided by the entities. Additionally, agreements with the entities were not submitted in either draft or final form. Without additional information concerning the roles of these entities, the applicant has failed to demonstrate that it will properly operate as an independent public school or that it has the necessary support and planning to provide a comprehensive learning experience to students of the cyber charter school.

The applicant failed to demonstrate it could serve as a model to other public schools.

The CSL requires the Department review a cyber charter application to determine the extent to which the proposed school may serve as a model for other public schools. The information provided in V3's application evidences the proposed school is modeled after an existing program offered by the Northern Lebanon School District (NLSD), called "V3 Academy." During the public hearing, V3's representatives agreed the school model and curriculum was substantially similar or identical to the program operated by NLSD. The program offered by NLSD is also part of a collaborative called blendedschools.net. A review of the blendedschools.net website evidences many school districts utilize resources available from blendedschools.net, including virtual programs and classes and other curriculum and instruction. At the public hearing, V3's representatives stated they would also obtain a number of services and resources from blendedschools.net. Based on the information in V3's application and as provided during the public hearing, V3 provided no evidence of a unique approach to education that would indicate the proposed school may serve as a model for other public schools.

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

(a) Inaccurate, conflicting and incomplete budget information.

V3 submitted two separate proposed budgets in its application. One proposed budget was submitted in the PDE-2028 format (Appendix AD), with total revenue of approximately $1 million. The second proposed budget was submitted in a different format labeled "startup budget" (pages 55-56 of the application), with total revenue of approximately $2.9 million. V3's representatives had little knowledge relating to the preparation of the proposed budgets and were unable to clarify the differences between the two formats, but indicated that the $2.9 million revenue estimate "should" be the correct estimated revenue for a full year of operation.

V3 failed to submit either a single budget for a full year and describe start-up financing plans or submit a separate budget for start-up and for annual recurring operating costs, and failed and was unable to provide, additional explanation to determine what the submitted proposed budgets represent.

The "startup budget" within the application did not specify whether all appropriate costs have been included. The budget does not include a description of each line. For example, based on the testimony of V3 representatives, the "Position" section of the budget includes both school employees and contracted services, but these differences were not clearly described in the budget. Also, healthcare and retirement costs are combined in one line. The budget did not permit a proper assessment of salary, healthcare, and retirement costs and contributions.

The "startup budget" submitted within the application shows an ending fund balance of approximately $700,000, and the application separately states that if start-up financing goals are met – including in-kind and monetary donations – the fund balance could be as high as $1.8 million. V3 could not explain why budgeted expenditures are $700,000 less than anticipated revenue, and why those funds are not being used to support school programs and operations. Any funds to be spent on school programs or expenditures must be shown in the appropriate budget line.

The "startup budget" submitted within the application does not clearly include the cost of liability insurance.

The "startup budget" submitted within the application appears to include lease and cleaning costs for two separate facilities. However, a single letter of intent to lease for a single facility was submitted and V3 representatives stated references to a second facility should have been removed from the application.

The "startup budget" submitted within the application does not show revenue detail, other than a single line for "student tuition." No start-up contributions were included and no contingency plan for financing start-up costs prior to the receipt of revenue if donations were not obtained was provided. All anticipated state or federal revenue must be shown separately.

The budget in the PDE-2028 format included in the application did not fully explain the assumptions for salary costs, health benefit costs, and PSERS contribution rates utilized.

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

There is no evidence start-up funding has been secured or discussed with potential donors. The V3 states donors wish to remain anonymous.

During the hearing, a V3 representative stated the facility they plan to use requires renovations before it can be used. Costs for renovations do not appear to be included in the submitted budget.

(c) The applicant failed to demonstrate the necessary understanding of cyber charter school funding provisions.

Pursuant to 24 P.S. § 17-1725-A(a), a charter school is paid by the student's resident district. V3 failed to adequately describe how it arrived at its revenue estimates. At the public hearing, a V3 representative stated that "billing statements" from two operating charter schools relating to one single school district were reviewed to determine a per-pupil amount. As a state-wide cyber charter school, V3's reimbursement rates would vary based on the enrolled student's resident school district. V3 failed to demonstrate that it properly considered the various rates applicable in school districts in the state.

(d) The applicant did not submit sufficient evidence of financial support and planning for technology 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. V3 states it will provide a $40 internet service provider stipend per month. V3 does not describe any procedures for reimbursement of internet services for students that remain enrolled in the cyber charter school between the end of a school year and the beginning of the next school year. V3 also does not include any information to ensure the full cost of internet reimbursement will be provided even if those costs exceed the identified $40 per month and did not include any information to describe other methods to obtain and to pay or reimburse for high-speed internet service that would be needed in the event that traditional broadband service are not available to the student.

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

V3 failed to demonstrate that is has allocated sufficient special education teacher and support staff resources to meet the needs of students with disabilities. V3 uses a projected 1:20 teacher–student ratio and stated it would follow the guidelines in 22 Pa. Code Chapter 14 for supplemental and iterant levels of support would be based on the needs of the student populations. V3 failed to minimally outline any plans which could demonstrate it has designed a program and budget for sufficient teaching staff and support staff resources to meet the needs of their anticipated population of students with disabilities.

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

The curriculum information submitted with V3's application showed little evidence of a curriculum framework that clearly describes content. When asked if they had curriculum in the application V3's representatives stated they did not go into curriculum detail in their application.

V3 did not include detailed curriculum maps delineating courses to be offered and how its curriculum meets the requirements of 22 Pa. Code Chapter 4. V3 did not articulate how planned instruction aligned with academic standards shall be provided at all grade levels in the areas of assessment and resources. V3 plans to offer instruction for Grades 7-12 and did not provide

sample lessons or assessments aligned to the course work being offered. V3 could not verify the courses were aligned to PA Academic Standards or the PA Common Core Standards.

V3 did not provide any curriculum for Advanced Placement courses or for Physical Education. V3's application states that additional curriculum was located in Appendix R, but no such appendix existed in the curriculum. V3 agreed that drafting of the curriculum and creation of the standard alignments was not completed at the time of the application was submitted.

V3 did not have the identified courses on any type of instructional platform or delivery system in which students would be accessing the courses.

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

22 Pa. Code § 4.26 requires that a cyber charter school "provide a program for each student whose dominant language is not English for the purpose of facilitating the student's achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction." The Basic Education Circular, *Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL)* 22 Pa. Code § 4.26 states that each local education agency (LEA) must have a written Language Instructional Program that addresses key components, including a process for identification, placement, exit, and post-exit monitoring; instructional model used; curriculum aligned to PA standards; and administration of annual proficiency and academic assessments. Cyber charter schools are subject to 22 Pa. Code Chapter 4 and the Department's related requirements for ESL programs.

V3 failed to provide evidence of an ESL Program that is appropriate for the education of English language learners. V3 failed to address key components of an ESL Program or to provide specifics on how an ESL Program would be implemented.

V3's application did not specify planned instruction for English language learners. V3 also provided no evidence of a research-based program model for English language acquisition or an ESL curriculum aligned to PA English Language Proficiency Standards and academic standards, and V3 did not account for the number of courses or online time required for ESL instruction.

Furthermore, V3'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.

V3's application did not detail a process to be used for identification, placement, exit, or monitoring of exited students.

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. In the interview, there was no mention of who was going to be on the committee. V3 failed to provide sufficient information to evidence of a professional education plan that meets applicable requirements.

V3's professional education plan was limited to a description of how the school will recognize attendance at professional meetings as a method where professional employees can keep abreast of current educational ideas. V3's plan did not designate or provide 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, V3's representatives stated they would include students on the planning committee which is not required according to the Act 48 Professional Education guidelines.

V3's professional education plan did not include information on teacher assessment of professional education needs, including the content area, teaching practices, and meeting the needs of diverse learners. V3's plan did not explain how the professional education program will be evaluated to determine its effectiveness to allow adjustments and changes to be made.

V3 did not develop a teacher induction plan that includes an induction coordinator and induction committee/council consisting of administration representation, teachers or educational specialist, or both, designated by their peers. At the public hearing, V3's representatives stated the administrative team would answer that question at a later time. Details must be provided in the application.

V3's teacher induction plan did not provide goals and competencies and an assessment process or explain how the induction team will be set and how mentors will be designated and matched with the new teachers in a sustainable mentor-inductee relationship. In the public hearing, V3's representatives could not definitively state whether or not the school would include teachers to serve as mentors. V3's plan did not include the Code of Conduct of Professional Practice and Conduct as stated in 22 Pa. Code Chapter 235. The plan also did not provide an explanation of how the induction program will be monitored and evaluated or how records relating to program participation and completion will be maintained.

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

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

As stated above, V3 failed to demonstrate it has allocated sufficient special education teacher and support staff resources to meet the needs of students with disabilities. V3 uses a projected 1:20 teacher–student ratio and stated that it would follow the guidelines in 22 Pa. Code Chapter 14 for supplemental and iterant levels of support would be based on the needs of the student populations. V3 failed to outline plans to demonstrate a program and budget designed to include sufficient teaching and support staff resources to meet the anticipated population of students with disabilities.

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

V3 failed to demonstrate it has a continuum of placement options available to meet the needs of students with disabilities. V3'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. V3 did not demonstrate its program has the local capacity to meet the needs of students who require more than inclusion in the general education classroom.

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

As a statewide cyber charter school, V3 would be required to accept students from across Pennsylvania. V3 acknowledged it has a fair amount of local connections and they need to start reaching out to more providers across the state. V3 has not demonstrated it has established relationships with a sufficient sample of statewide resources to meet the needs of students with disabilities.

In the application, V3 stated it "may: enter into agreement with Lebanon/Lancaster County School Districts for the purpose of sharing special education; and enter into agreements with private contractors to provide programs of low-incidence populations." However, again the same is not accounted for statewide.

Additionally, the application does not address transition planning and the resources V3 has established to address post-secondary education, employment and independent living, including, for example, how student internships and job shadowing will be implemented and monitored, how college visits and career days will be addressed statewide, and what resources will be 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.

V3 fails to identify a plan to ensure that transportation vendors or other resources are established that can provide transportation when required as a part of an Individualized Education Program (IEP). V3 acknowledges transportation would need to be further addressed. In addition, learning center resources are focused on the central region of the state only.

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

V3 failed to submit any policies or procedures in key required areas of special education which could demonstrate it has a working knowledge of how special education operates and how it will implement these requirements within its program.

V3 did not provide sufficient detail of the how it intends to implement special education and the Department could not determine that V3 has a program and plan which meets both the federal and state requirements for the implementation of the Individuals with Disabilities Education Improvement Act of 2004 (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 information in the application is limited and fails to provide a description of how the needs of students with disabilities will be met.

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, V3 states that it will provide a $40 internet service provider stipend per month. This statement was again made by V3's representatives during the public hearing. V3 does not describe any procedures for reimbursement of internet services for students that remain enrolled in the cyber charter school between the end of a school year and the beginning of the next school year. V3 also does not include any information to ensure that the full cost of internet reimbursement will be provided even if those costs exceed the identified $40 per month. Further, V3 did not include any information to describe other methods to obtain and to pay or reimburse for high-speed internet service that would be needed in the event that traditional broadband service (DSL, cable, etc.) are not available to the student.

(b) The applicant did not demonstrate sufficient development of procedures for educating students and parents on internet behavior and activities.

V3's representatives indicated educational opportunities will be provided to address the appropriate interaction on social networking websites and in chat rooms, as well as cyber bullying awareness and response. Examples provided included reminders of the Acceptable Use Policy and Internet Safety Policy, using resources provided by the Attorney General's Office, outlining the dangers of sexting, providing parent training, etc. However, a defined set of educational experiences by grade level and/or course were not provided.

(c) The applicant did not sufficiently describe the equipment to be provided to students.

V3's representatives discussed the equipment to be provided to the students and the use of other technology platforms to leverage tablet and mobile devices. However information in the application outlined an "example of the computer that the student will receive" and described a netbook. V3 must provide details for the actual equipment to be provided to students. In addition, clarification must be provided as to how tablets and mobile devices will be incorporated into educational experiences for the students.

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

Broadband connectivity is essential for every student to have the same level and quality of access to all instructional materials and collaboration tools within a cyber charter school environment. 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. During the hearing V3's representatives indicated 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, but no evidence of actions to explore these options was submitted. Formalized policies and procedures were not established as to the specific broadband requirements for all students including all options that will obtain high speed access to students currently only having dial-up internet access 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. Information was not provided as to whether V3 will cover the costs of all options of providing high speed access to students.

The applicant failed to demonstrate an adequate understanding of student assessment principles and requirements.

V3's application demonstrates a lack of measurable academic goals. V3's application only re-stated the adequate yearly progress (AYP) requirements and did not demonstrate goals.

V3 did not demonstrate a complete understanding of the AYP requirements. At the hearing, a V3 representative stated that nothing was identified from a Keystone Exam perspective because requirements are continually changing. V3 did not acknowledge the Department has clearly addressed that the Keystone Exams will replace the grade 11 PSSAs for AYP requirements.

In V3's application, the Pennsylvania Performance Index (PPI) is mentioned as a provision for meeting AYP although PPI has not been an acceptable provision for making AYP for several years.

Intervention techniques for those students who are not proficient are not clearly stated in the application. During the public hearing, V3's representatives stated intervention plans would be implemented "through RTII or some type of intervention technique to help strengthen those weaknesses." A plan must be articulated that will address students who will need academic intervention services.

Both in the application and during the hearing, no clear plan was demonstrated to address student travel to participate in large scale assessments. Without an articulated plan, there is no guarantee that all students will be equitably served.

During the public hearing, V3's representatives stated the majority of the courses would be only asynchronous and any synchronous instruction would be delivered in a teacher's office hours. V3 failed to address whether it accounted for the need by students for immediate feedback from teachers or any provisions for the learning style that the young and inexperienced non-self-directed students will be experiencing in order to succeed in the classroom.

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.

V3 failed to demonstrate an in-depth understanding of PDE's Comprehensive Planning (CP) web application and all of the associated school improvement planning tools made available to all schools in Pennsylvania.

V3's statements did not properly state how students are grouped for achievement measurements and by extension, how to plan for improvement. V3 failed to demonstrate an understanding of the ongoing dialogue the Department has with the U.S. Department of Education (USDOE) via the "Accountability Workbook," which is updated at least yearly and contains critical information affecting all Commonwealth public schools. V3's representatives did not demonstrate familiarity with the Accountability Workbook.

V3 failed to provide a viable alternative to the Department's planning process which would ensure compliance with all federal, state, district and school level planning requirements. V3 did not demonstrate a complete knowledge of the current planning process offered by the Department and no alternative to meeting federal and state planning requirements was offered in the application or during the public hearing. V3 also failed to demonstrate an understanding of specific achievement needs of students likely to enroll in the cyber charter school.

Conclusion

Based on the deficiencies identified above, individually, collectively, and in any combination, V3's application is denied.

V3 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, V3 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