



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

January 23, 2014

Mr. Alan C. Kessler
Duane Morris LLP
30 S. 17th Street
Philadelphia, PA 19103-4196

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Kessler:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Insight PA Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny your application. Please review the pages that follow for more information.

If you have any questions, please contact Steven Carney at (717) 214-5708 or stevcarney@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolyn C. Dumaresq".

Carolyn C. Dumaresq, Ed.D.
Acting Secretary of Education

Enclosure

**Insight PA Cyber Charter School
2013 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. A cyber charter school applicant must submit its application to the Department by October 1 of the school year preceding the school year in which the applicant proposes to commence operation. After submission of an application, the Department is required to hold at least one public hearing and grant or deny the application within 120 days of its receipt.

The Insight PA Cyber Charter School (Insight PA) timely submitted an application to operate a cyber charter school. The Department provided 30 days notice of a public hearing held on November 15, 2013.

Decision

Based on a thorough review of the written application as well as questions and responses recorded at the November 15, 2013 public hearing, the Department denies Insight PA's application. Deficiencies were identified in the following areas:

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

I. The applicant failed to comply with the application requirements.

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students. A cyber charter applicant must also demonstrate that the programs outlined in its application will enable students to meet the academic standards under 22 Pa. Code Chapter 4 or subsequent regulations.

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

A cyber charter applicant is required to submit a description of how it will provide adequate liability and other appropriate insurance for the proposed school, its employees and the board of trustees. Evidence of insurability must be submitted with the application.

Insight PA identified an insurance provider and submitted a blank insurance application form. Insight PA did not provide any price and coverage quotations, letters of insurability, or other evidence of insurance coverage or insurability. In addition, Insight PA failed to provide a description of the types of insurance that are to be obtained or estimated coverage levels or other evidence that the amount budgeted for insurance is adequate or whether Insight PA is able to obtain the required insurance coverage.

(b) The applicant failed to provide evidence of cooperative learning opportunities and field trips.

A cyber charter applicant is required to provide a specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions. Insight PA stated that it will establish cooperative learning groups and organize field trips, but did not identify, and the applicant team could not provide information at the hearing to explain, which models Insight PA plans to use to create cooperative learning groups. Furthermore, Insight PA did not explain the specific field trips it will organize and how such field trips are incorporated into the curriculum.

(c) The applicant failed to identify provisions to comply with state reporting requirements.

A cyber charter applicant is required to report student data to the Department using the Pennsylvania Information Management System (PIMS). Insight PA failed to identify the necessary support and planning to comply with this requirement, including knowledge of state reporting requirements, a system to securely house student-specific information and records, and the individual who will be responsible for meeting state reporting requirements.

(d) The applicant failed to provide sufficient information to identify the number of courses required for students.

A cyber charter applicant must identify the number of courses required for elementary and secondary students. Although Insight PA included the total number of credits required for graduation, Insight PA did not identify the number of courses required for elementary and secondary students.

(e) *The applicant failed to provide sufficient information concerning the curriculum to be offered and how it meets the requirements of 22 Pa. Code Chapter 4.*

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students. A cyber charter applicant must demonstrate that the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Chapter 4. A cyber charter applicant is required to include with its application the curriculum to be offered and how it meets the requirements of 22 Pa. Code Chapter 4. Planned instruction for each course offering must be aligned to the following: (1) learning objectives and outcomes; (2) eligible content and assessment anchors that will be measured on the Pennsylvania System of School Assessment (PSSA) and Keystone assessments; and, (3) Pennsylvania academic standards. A cyber charter applicant must also explain the research basis for the school's educational program, including how the planned instruction and assessments will enhance student performance.

The Pennsylvania Independent Regulatory Review Commission recently approved final-form regulations submitted by the Pennsylvania State Board of Education that would revise certain provisions of 22 Pa. Code Chapter 4. Among other changes affecting cyber charter schools and other school entities, the revisions to 22 Pa. Code Chapter 4 will implement the Pennsylvania Core Standards. The Department anticipates that the revisions to 22 Pa. Code Chapter 4 will be published and effective prior to the beginning of the 2014-2015 school year. Beginning in the 2014-2015 school year, state assessment examinations, including the PSSA and Keystone examinations, will test student proficiency based upon the Pennsylvania Core Standards included in the revised 22 Pa. Code Chapter 4 requirements. Accordingly, at a minimum, a cyber charter applicant must submit evidence that its curriculum and planned instruction to be offered meet the requirements of 22 Pa. Code Chapter 4 in its expected revised form, including the Pennsylvania Core Standards and the content and assessment anchors to be measured on the PSSA and Keystone exams, which are aligned to the Pennsylvania Core Standards.

Appendix 1 of Insight PA's application contains a listing of courses offered by Insight PA through its educational products and services agreement with K12 Virtual Schools, LLC (K12 Services Agreement).¹ Appendix 17 contains a course crosswalk, which is intended to provide evidence that courses are aligned to the required standards in 22 Pa. Code Chapter 4. However, the course crosswalk in Appendix 17 contains information to evidence alignment for only some of the courses listed in the course catalogue in Appendix 1. A K12 representative testified that a curriculum committee would complete this crosswalk and verify the alignment.

¹ The Department presumes that references in Insight PA's application to K12, Inc. are intended to be references to K12 Virtual Schools, LLC. The K12 Services Agreement clarifies that K12 Virtual Schools, LLC is a wholly owned subsidiary of K12, Inc. For purposes of clarity, this decision refers to the entities as "K12."

In addition, Insight PA indicated that teachers will be required to supplement its curriculum. Therefore, the curriculum that Insight PA provided in its application will differ from the curriculum that it ultimately uses for instruction. Insight PA has not presented evidence that its complete curriculum complies with applicable requirements.

Changing the curriculum is considered a change to a material provision of a charter, which requires approval from the Department as an amendment to the charter. If the Department were to grant Insight PA a charter, Insight PA would be required to seek approval from the Department to amend the charter. Insight PA has not described any procedures that it will follow to submit the supplemental curriculum to the Department for review and approval prior to its instructional use. Changes to the curriculum would be particularly difficult in the first years of the operation of a new cyber charter school, when the school is focusing on development and implementation of various other operational requirements.

- (f) The applicant failed to describe how the school will define and monitor a student's school day and failed to provide sufficient information about the delineation of the amount of on-line and off-line time required for students.*

A cyber charter applicant must provide a description of how the school will define and monitor a student's school day, and include an explanation of the amount of on-line time required for students and a delineation of the amount of on-line and off-line time required. Insight PA stated that it will be fully synchronous in a student's first year with students attending live instructional sessions in each course several times a week and then students will work towards a more asynchronous schedule. Insight PA also indicated that elementary students will attend five hours per day and secondary students will attend five and one half hours per day to meet the instructional requirements in the Public School Code. However, Insight PA did not specifically explain the amount of on-line and off-line time required of students or describe how it will define and monitor a student's school day.

- (g) The applicant failed to provide sufficient information regarding teacher and administrator evaluations.*

A cyber charter applicant must provide a description of how it will evaluate teachers and administrators, including a description of standards for teacher and staff performance.

Pursuant to Act 82 of 2012, the Department has developed an educator evaluation system, or Educator Effectiveness Initiative, that incorporates those attributes that are most critical to the way teachers, non-teaching professionals and principals are evaluated. The Department also developed an Educator Effectiveness Rating Tool (EE Rating Tool) to identify the overall performance rating of teachers. The EE Rating Tool evaluates teachers by using the following four measures: 1) observation and practice, which is based upon the Danielson Framework for Teaching; 2) building level data; 3) teacher specific data; and 4) elective data. The Department also developed an Educator Effectiveness Manual to explain the educator evaluation system, to help guide educators in the implementation of the rating tool and to provide assistance for educators regarding educator effectiveness information.

Although cyber charter schools are not required to utilize the Department's Act 82 educator evaluation system, a cyber charter school must have a meaningful educator evaluation policy and procedure incorporated as part of its application to ensure that students have effective educators in their cyber environment.

Insight PA stated it will implement an educator evaluation system in compliance with Act 82 and use the Department's educator evaluation system, as modified for the cyber environment. The application also includes the EE Rating Tool as an appendix. Insight PA also stated that it will use the Danielson Framework for Teaching to evaluate its teachers. It is not clear whether Insight PA plans to use the Department's entire educator evaluation system, or a portion thereof, to evaluate its teachers.

II. The applicant failed to submit sufficient evidence of proper governance and of the necessary support and planning to provide a comprehensive learning experience to students.

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students as an independent public school operated through a nonprofit entity with an established and effective board of trustees. A cyber charter applicant must also demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A.

(a) The applicant failed to provide sufficient evidence that it would operate as an independent public school.

A cyber charter school is an independent public school established and operated under a charter issued by the Department. A cyber charter school must be organized as an independent, nonprofit corporation. Insight PA stated that it will partner with K12, a for-profit, virtual educational products and services provider, and that K12 will provide curriculum and management services to Insight PA. Insight PA included an executed copy of the K12 Services Agreement in its application.

The information provided by Insight PA demonstrated significant dependence by Insight PA on K12 that evidences ultimate control of the school with K12 and not Insight PA, thus a lack of the independence required of a cyber charter school. The K12 Services Agreement requires that Insight PA change its name upon termination of the agreement. More specifically, the K12 Services Agreement states:

Use of Name. The Board acknowledges and agrees that, upon the termination of this Agreement, within thirty (30) days following the date of such termination, the Board shall cause the School to change its name to remove the word "Insight" therefrom and shall make all necessary filings under the Applicable Law and shall execute all such documents and papers and perform such further acts in order to effectuate such name change, and, following the expiration of such thirty (30) day period, neither the School nor its affiliates shall have any right to use of the name "Insight" or any other name containing the word "Insight" or any service marks,

trademarks, trade names, identifying symbols, logos, emblems, signs or insignia related thereto or containing or comprising the foregoing, including any name or mark confusingly similar.

Under the K12 Services Agreement, K12 provides Insight PA with all or a majority of the products and services needed to operate the proposed cyber charter school, including: curriculum; online school and learning management systems; teacher training, recruitment and management; financial and school administration services; a student information system; a student account management system and related technology services; hosting of an online platform; and, other administrative and technology support services. K12 is to provide comprehensive educational products and services, including turnkey management services, and assures the financial solvency of Insight PA.

The members of Insight PA's board of trustees that participated in the public hearing were unable to provide responses to a majority of the programmatic questions posed at the hearing or deferred to a K12 representative for responses to the questions.

Parents/guardians must send completed student enrollment applications to an e-mail address with a "@k12.com" domain. Insight PA is a Pennsylvania corporation with a Pennsylvania mailing address; however, the mailing address for paper copies of the enrollment materials is identified as K12's mailing address and Insight PA is identified as the recipient.

It is not clear that Insight PA would be able to continue its operations if the K12 Services Agreement was to be terminated. The Insight PA board of trustees did not demonstrate that they were prepared and had the support and planning in place to continue the educational and other programs necessary to provide a comprehensive learning experience to students, including the administrative, financial and technology products and services needed to operate effectively.

(b) The applicant failed to submit sufficient evidence of effective governance by an independent board of trustees.

A cyber charter applicant must provide information to identify the cyber charter applicant, the name of the proposed school, and the proposed governance structure. This must include governing documents such as the articles of incorporation filed with the Pennsylvania Department of State, bylaws, and the proposed governing body or board of trustees.

Insight PA provided a March 2013 document to evidence the change of the name of PA Community Partners for Education to Insight PA Cyber Charter School. The articles of incorporation for PA Community Partners for Education were not provided. Insight PA included articles of incorporation and a docketing statement for an entity named Insight PA Cyber Charter School, signed September 26, 2012. However, these documents do not bear any evidence that they were filed with or received by the Pennsylvania Department of State. Based on the information submitted by Insight PA, it is unclear which governing documents relate to the applicant and whether they were filed and accepted by the Pennsylvania Department of State.

Insight PA provided a document purporting to be its bylaws. The document does not include any evidence that it was reviewed and adopted by Insight PA's board of trustees. The bylaws provide for two-year terms for members of its board of trustees. The bylaws do not indicate whether a member of the board of trustees can serve multiple terms and whether terms of the members of the board of trustees are staggered to assist with ensuring some continuity in the composition of the board of trustees through changes in membership. Insight PA stated that the founders serve as the two initial members of the board of trustees and that these members elected five additional trustees, but it did not identify the commencement and expiration of the terms for any of these members and how they coincide with the term lengths and limits applicable through Insight PA's bylaws.

(c) The applicant did not submit sufficient evidence that it will employ school administrators in compliance with applicable legal requirements.

A person who serves as an administrator of a cyber charter school shall not receive compensation from any other charter school or from a company that provides management or other services to another charter school. An administrator of a cyber charter school is a public official under state and federal law and is specifically subject to the Pennsylvania Public Official and Employee Ethics Act. Insight PA's proposed budget does not allocate funding for a chief executive officer or other lead school administrator, and it is unclear how Insight PA intends to address the responsibilities of the chief administrator or other administrators. The K12 Services Agreement provides for K12 to employ and determine the employment terms of the administrative and other staff who provide services to Insight PA. This may include a Head of School or equivalent administrative staff position. K12 retains the sole authority to select, supervise, compensate and determine compensation, evaluate, transfer, promote, discipline and dismiss K12 staff, including administrative staff providing services to Insight PA. Insight PA did not submit evidence that administrators will be employed by Insight PA or that Insight PA will have sufficient oversight over these key personnel, and did not submit sufficient information to demonstrate that the administrators will comply with applicable provisions of law relating to charter school administrators.

III. The applicant failed to submit evidence that it has the demonstrated, sustainable support for the cyber charter school plan and the necessary support and planning to provide a comprehensive learning experience to students.

A cyber charter applicant must submit evidence that it has the demonstrated, sustainable support for the cyber charter school plan and the necessary support and planning to provide a comprehensive learning experience to students. "[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. The indicia of support are to be measured in the aggregate rather than by individual categories. *Id.* The Department looks for letters or other indications of support from teachers, parents or guardians and students submitted with the application.

Insight PA provided only nine e-mails or letters to evidence support for the cyber charter school plan. In some cases, these letters were identical to one another. All the e-mails and letters were

received within a one-week time period and all immediately prior to the submission of the cyber charter application. The members of Insight PA's board of trustees represent different geographic areas of the state, but the e-mails and letters of support all appear to have been received from one single geographic area of the state. During the public hearing, members of Insight PA's board of trustees acknowledged that they had not all sought or obtained evidence of support in their geographic areas. With Insight PA's first year enrollment anticipated to be 1,000 students, only nine e-mails evidencing support for the cyber charter school plan fails to demonstrate sustainable support for the cyber charter school plan and the necessary support and planning to provide a comprehensive learning experience for students.

IV. The applicant failed to provide sufficient information to establish that it will operate as a cyber charter school and use physical school facilities in a proper manner.

On July 11, 2013, the Department issued a Basic Education Circular (BEC) entitled "Cyber Charter School Operations and Proper Use of Physical Facilities" (Cyber Charter School Physical Facilities BEC). As explained in more detail in the Cyber Charter School Physical Facilities BEC, 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 providing no more than supplemental services to students and shall provide equitable access to such services for all students enrolled in the school. The cyber charter school must also be able to demonstrate the ability to enroll students from across the state and provide all services to those students in a materially consistent way, regardless of where they reside.

Insight PA stated it will require all students to attend a face-to-face enrollment meeting that will include the creation of an Individualized Learning Plan. Insight PA did not provide sufficient information about how these enrollment meetings will be accessible to students who choose not to participate in the face-to-face meeting. Insight PA stated students will be offered the opportunity to meet in a face-to-face setting during the "Live Launch." Insight PA plans to rent facilities across Pennsylvania in order to make Live Launch available to all students. Insight PA did not provide sufficient information concerning how Live Launch will be accessible to students who choose not to go to a physical facility for Live Launch.

Insight PA's proposed budget includes a \$161,000 expenditure for budget line 2600-400, Operation and Maintenance of Plant Services, Purchased Property Services, which is allocated, in part, to facility rent for Live Launch activities and three days per week for five learning centers. Insight PA stated that physical facilities will be secured across Pennsylvania for tutoring, face-to-face interaction as needed, and a networking location for teachers, parents and students. Insight PA's proposed budget includes a \$20,000 expenditure for budget line 2700-500, Student Transportation Services, Other Purchased Services, which is noted as being for student transportation tokens to Learning Centers.

Insight PA intends to use physical facilities as part of its school and to provide services to students at the facilities. Insight PA did not demonstrate that it has an understanding of the proper use by a cyber charter school of physical facilities and that it has the capability, in terms

of support and planning, to provide comprehensive learning experiences in a manner appropriate for a cyber charter school.

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

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including in areas relating to technology requirements applicable to and necessarily part of the operation of a cyber charter school. A cyber charter applicant must also demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A.

(a) *The applicant failed to provide a damage/repair policy that addresses procedures and financial responsibility.*

A cyber charter school is required to provide each student enrolled with all equipment necessary for the student's participation in the school, including a computer, monitor and printer. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must have policies and procedures to address the financial responsibilities and procedures for the quick and convenient repair and/or replacement of equipment that has been damaged or stolen.

Insight PA stated students can use another computer and temporarily access local publicly available internet in the event of equipment or internet malfunction. In addition, Insight PA stated that internal escalation processes are in place to provide quick access to second-line technical support. A "2014-2015 Agreement for Use of Instructional Property" document included with the application places financial and other responsibility for the repair and replacement of damages or lost equipment on the student's parent/guardian. The application is otherwise unclear as to whether the parent, Insight PA, or K12 are financially responsible in cases of repair and replacement. Although the 2014-2015 Agreement for Use of Instructional Property provides some information concerning the procedures for repair and replacement of damaged or stolen equipment, Insight Pa did not provide sufficient information to establish clarity concerning these procedures. The 2014-2015 Agreement for Use of Instructional Property also places responsibility for warranty repairs and software upgrades on the student's parent/guardian. Insight PA did not submit evidence that it has developed policies and procedures to ensure a student's educational experience will continue without disruption in the event of equipment malfunction, damage or loss.

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

A cyber charter school is required to provide or reimburse each student enrolled for all technology and services necessary for the on-line delivery of the school's curriculum and instruction. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must ensure access to broadband connectivity in the student's home or regular place of instruction for every student to have the same level and quality of access to all

instructional materials and collaboration tools within a cyber environment. Some students in Pennsylvania may live in areas not serviced with broadband connectivity delivered directly to the home. Regardless of the connectivity available, no student's cyber education should be limited based on where he or she lives. Formalized policies and procedures must be established defining the specific broadband requirements for students, including the options that will be offered to get high-speed access to cyber charter school students who may currently have only dial-up available to the home.

Insight PA stated it will provide a mobile air card to those students not able to access high-speed internet. The K12 representative testified that Insight PA "will work directly with the family to find the best provider and assist with establishing the service." However, Insight PA failed to provide details as how to service those students unable to access cellular tower coverage to ensure that an equitable, timely education experience is provided for all.

(c) The applicant failed to define the technology and equipment standards that promote equitable access to online learning.

A cyber charter school is required to provide or reimburse each student enrolled for all technology and services necessary for the on-line delivery of the school's curriculum and instruction. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must ensure equitable access to all digital content and online resources, and have all computers used by students meet a minimum, preferred set of standards. Preferred standards are based upon the system and software requirements necessary to deliver a robust educational experience.

Insight PA listed Mozilla Firefox version 3.6 or higher, Internet Explorer version 7.0 or higher, and Chrome version 17.0 or higher as the browsers of choice. The minimum, preferred standard for Internet Explorer should require use of version 8.0 or higher. Additionally, a cyber charter school's policies should identify browser settings or define policies and procedures for how these settings are established and shared with students and their parents/guardians and set on the computers provided to the students. Insight PA did not provide sufficient information to explain these procedures.

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

A cyber charter school is required to provide or reimburse each student enrolled for all technology and services necessary for the on-line delivery of the school's curriculum and instruction. In order to ensure a continued, comprehensive learning experience for its students, a cyber charter school must ensure that families are regularly reimbursed for internet access services. Although Insight PA stated it will provide internet reimbursement to families, it did not address the amount and frequency of such reimbursement. Furthermore, Insight PA's representatives testified that a policy addressing internet reimbursement has yet to be developed.

VI. The applicant failed to provide proof of curriculum alignment that meets the requirements of 22 Pa. Code Chapter 4.

As previously stated in Section I (e) above, Insight PA provided curriculum alignment only for some of the courses listed in its course catalogue.

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

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including those with disabilities. A cyber charter school must comply with federal and state requirements applicable to educating students with disabilities. A cyber charter applicant must describe the provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs (IEP).

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

A cyber charter applicant must demonstrate an adequate allocation of special education teachers and related services personnel to meet the needs of the projected special education student population. Insight PA anticipates a 25:1 special education student-to-teacher ratio. Insight PA did not identify ratios for related services personnel and paraeducators or a continuum of placements and support and did not provide sufficient information to demonstrate whether staffing is adequate to meet the requirements of its students with disabilities.

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

A cyber charter applicant must demonstrate that a continuum of alternative placements will be available to meet the needs of children with disabilities for special education and related services. Insight PA did not include sufficient evidence of the development of at least some local capacity to provide services to students whose needs cannot be met in the general education environment. Insight PA provided a Related Services policy that states, “[c]ontracts are secured with private clinics, therapists, hospitals and local districts throughout the state to provide therapy [for Insight PA students.]” However, Insight PA did not include necessary information concerning these providers, including pricing, location, qualifications and transportation. Insight PA stated it has contacted a service provider for students with disabilities, but does not provide sufficient information to demonstrate adequacy of the provider and services or other necessary information about the provider and services to be provided. Additionally, although Insight PA stated that Appendix 18 of its application contains the proposed contract with the service provider, this appendix only contains special education policies and procedures.

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

A cyber charter applicant must demonstrate the ability to provide a free appropriate public education (FAPE) by having written policies and procedures, or a narrative, that reasonably address the implementation of federal and state special education requirements. Insight PA did not include evidence of several policies or procedures in key areas of special education that would demonstrate a working knowledge of how special education operates and how Insight PA will implement these requirements within its program, including: Positive Behavior Support; Psychological Counseling; Discipline; Least Restrictive Environment; State and Local Assessments; Surrogate Parents; Intensive Interagency; Restraints and Seclusion; Manifestation Determinations; Disproportionate Representative of Minorities; Transition Services; Extracurricular Activities; and, Graduation and Dropout Prevention.

- (d) *The applicant failed to demonstrate preparation to provide sufficient personnel training related to special education and related services.*

A cyber charter applicant must ensure that all personnel will be appropriately and adequately prepared to provide special education and related services to students with disabilities. This should include training sessions on topics such as behavior support, inclusive practices, transition, autism and interagency. Insight PA did not identify any professional development offerings to train administrators, teachers and staff on the provision of special education and related services to students with a disability.

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

A cyber charter applicant must demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students, including those whose dominant language is not English. A cyber charter applicant must also demonstrate that the programs outlined in its application will enable students to meet the academic standards under 22 Pa. Code Chapter 4 or subsequent regulations. An effective English as a Second Language (ESL) Program is required to facilitate a student's achievement of English proficiency and the academic standards under 22 Pa. Code § 4.12. Programs under this section shall include appropriate bilingual-bicultural or ESL instruction. In addition, the Department's 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.

Insight PA failed to provide sufficient evidence of an ESL Program that is appropriate for the education of ELL students. Insight PA stated that ELL students will receive a daily lesson with an ESL teacher and lists the Compass Learning ESL Program and K12 curriculum as services to be offered to ELL students. However, Insight PA did not sufficiently address the main

components of an ESL Program, including: a discussion of the planned instruction that a qualified ESL teacher will use to educate ELL students; how teachers will use the services listed in the application to offer the planned instruction; and, the adaptations/modifications that teachers will use to deliver content instruction. Insight PA did not include procedures for the annual assessment of ELL students, for language instructional program exit, and for the monitoring of ELL students after language instructional program exit. Insight PA did not include any information regarding the provision of services and/or instruction for ELL students with disabilities pursuant to applicable federal and state requirements.

At the public hearing, only a K12 representative was able to provide testimony about an ESL program, albeit limited since ESL programming was not the representative's area of expertise. The representative stated that a formal decision has yet to be made as to what ESL program Insight PA will implement. Furthermore, the representative testified that this decision will be made once an ESL professional is hired and students begin to enroll.

IX. The applicant failed to demonstrate a necessary understanding of the applicable academic assessment and accountability programs and of the resources available to schools and students.

The Department must annually review a cyber charter school's performance on state assessment tests, standardized tests and other performance indicators to ensure compliance with federal and state academic standards. The Department must also annually assess whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter. Accordingly, and pursuant to applicable laws, a cyber charter applicant must demonstrate that its programs will enable students to meet the academic standards under 22 Pa. Code Chapter 4 and that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all students. A cyber charter applicant must identify the educational goals of the cyber charter school and the methods of assessing whether all students are meeting the educational goals. A cyber charter applicant must include written policies and procedures that reasonably address the types of state assessment tests, standardized tests and other performance indicators that the cyber charter school will use, including those utilized by the Department, and how the cyber charter school will use the data collected from the tests and other indicators to measure students' academic performance and to improve instruction.

The federal Elementary and Secondary Education Act (ESEA) of 1965, as amended by No Child Left Behind (NCLB) of 2001, requires all LEAs to meet federal accountability standards and be assigned a designation that identifies their current status and overall progress in meeting federal accountability standards. NCLB requires all LEAs be designated as making or not making Adequate Yearly Progress (AYP) based upon their students' performance on state assessment exams and be declared in School Improvement or Corrective Action, if applicable. In August 2013, the Department received waivers from certain requirements of NCLB, which includes an allowance to use alternative accountability standards and designations to define achievement (ESEA Flexibility Waiver).

Beginning with the 2013-2014 school year, the Department will no longer use AYP as the federal accountability standard and to determine the designation of LEAs. Instead, in accordance

with the ESEA Flexibility Waiver, the Department will use four Annual Measurable Objectives (AMOs) as the federal accountability standard and to designate those LEAs that receive Title I funds as Reward – High Achievement, Reward – High Progress, Priority, or Focus schools. The four AMOs include measuring Test Participation Rate, Graduation/Attendance Rate, Closing the Achievement Gap for All Students, and Closing the Achievement Gap for the Historically Underperforming Students. In addition, all LEAs, irrespective of whether the LEA receives Title I funding or is otherwise required to comply with federal accountability standards, will receive a School Performance Profile (SPP) score based on 100 points. This score will be considered the school's academic performance score, and while not the criteria for determination of Reward, Priority or Focus status, it details student performance through scoring of multiple measures that define achievement. The SPP also includes supports to permit schools to access materials and resources to improve in defined areas related to achievement.

The Department will use the SPP score and supporting data to ensure uniformity in the review of whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter and the assessment of a cyber charter school's performance on state assessment tests, standardized tests and other performance indicators. Therefore, a cyber charter applicant must demonstrate a working knowledge of SPP, including its data components and information sheets.

Insight PA acknowledged it will seek Title I funds, if available. Accordingly, Insight PA anticipates it will be subject to federal accountability standards for Title I LEAs. Even if Insight PA does not seek or receive Title I funds, if approved to operate a cyber charter school, Insight PA will receive an SPP score and the Department will annually review Insight PA's performance based on the SPP.

- (a) *The applicant failed to demonstrate an understanding of academic assessment and accountability for defined subgroups and content areas.*

A cyber charter applicant must set measurable academic goals and objectives for all its students, including specific goals and objective for subgroups and content areas defined by federal and state requirements. In addition, a cyber charter applicant must explain strategies and plans to achieve the academic goals for the defined subgroups and contents. Insight PA did not identify any measurable academic goals for defined subgroups and content areas or provide an explanation of strategies and plans to achieve the goals.

- (b) *The applicant failed to demonstrate a necessary understanding of school improvement programs and resources.*

As noted above, the Department received the ESEA Flexibility Waiver that lays out the federal accountability standards, referred to as AMOs, and intervention systems for Title I schools. The Department has planning tools that schools are encouraged to utilize to ensure compliance with all federal requirements. For example, schools are encouraged to complete school improvement plans and the Comprehensive Planning Tool. In addition, as noted above, the Department will use the SPP score and supporting data to ensure uniformity in the review of whether a cyber charter school is meeting the goals of its charter and is in compliance with its charter and in the review of the school's performance on assessment examinations, standards tests and other

performance indicators. As a result, cyber charter applicants must demonstrate an understanding of the ESEA Flexibility Waiver, including the accountability measures, and the Department's planning tools. A cyber charter applicant must also demonstrate how it plans to use SPP to revise and/or adjust its school improvement plans if the school fails to meet the federal accountability measures in a given year.

Insight PA included assurances that it will demonstrate academic growth. Insight PA stated that it will observe Pennsylvania requirements relating to the ESEA Flexibility Waiver, close the achievement gap by 42% over the term of the charter, and have a student participation rate of 95% and a student attendance rate of 90%. However, Insight PA failed to provide a specific explanation as to how it will meet these goals during the term of its charter on a year-to-year basis. In addition, Insight PA did not explain how it will revise and/or adjust school improvement plans if it fails to meet these goals in a given year. Insight PA failed to demonstrate an understanding that the Department will hold it accountable for these goals.

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

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must demonstrate the capability, in terms of financial support and planning, to provide a comprehensive learning experience for its students.

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

Insight PA's proposed budget for the 2014-15 school year identifies a \$1,045,396 expenditure in budget line 1100-400, Purchased Property Services, which is allocated to student computer leases, student internet provider reimbursement, and proctored exam administration. This amount averages to \$1,045 per student. Insight PA did not provide additional detail, including itemized budgeted costs, price quotations, or letters of intent, regarding the items included in these line items. Insight PA did not submit sufficient evidence to support that the amount budgeted for this line item is adequate and that the school has the necessary financial support and planning to provide a comprehensive learning experience to its students.

(b) The applicant failed to provide sufficient evidence of start-up funding and expenditures.

Insight PA's proposed budget for the 2014-15 school year does not identify sources of funding available to fund operations prior to the receipt of revenue. The budget only includes school district payments and state PSERS reimbursement as sources of revenue. Insight PA discussed several startup costs, such as information sessions, website development and establishment of a call center, that are likely to occur before the receipt of revenue in July 2014. Insight PA will likely incur several additional expenditures, such as marketing, curriculum development, staff hiring, and property rental/purchase, prior to the receipt of this revenue. Insight PA has already been incurring expenses, such as legal services relating to review of the K12 Services

Agreement, submission of the application, solicitation of letters of support, recruiting board members, hosting board meetings, and appearing at the public hearing.

The K12 Services Agreement allows K12 to pay for startup costs and to advance funds to Insight PA. Insight PA's representatives testified that K12 has already been advancing start-up costs. However, the Services Agreement does not obligate K12 to pay such startup costs or make such advances, and Insight PA has not identified a secured source of obligated start-up funding. Insight PA's budget does not identify how much funding K12 has provided or is expected to provide as there is no entry for Other Financing Sources to represent advances from K12. Insight PA's budget also does not identify the terms or amounts that will be paid back to K12 as there are no entries for repayment of advances from K12 or for interest payments on advances from K12.

The K12 Services Agreement states that repayment of any advances made by K12 is due 30 days from the date the advance is made and interest on overdue advances is paid at the prime rate (as determined by the Wall Street Journal), not to exceed 15% per annum. Insight PA stated it has received and continues to receive advances from K12. Insight PA did not identify any source of revenue to repay the advances. Insight PA's proposed budget does not identify any funds in budget line 5100, Debt Service/Other Expenditures and Financing Uses, which is where expenditures for repayment of advances and accrued interest are reasonably expected to be identified.

Although Insight PA identified several startup costs, Insight PA's proposed budget does not identify these costs in the line items that may be expected to include these expenditures. Furthermore, it is reasonably expected that Insight PA has already incurred additional expenditures not identified in its application and will incur several additional expenditures before opening the school.

Insight PA did not provide evidence that its proposed budget includes all start-up revenues and expenditure or whether it has properly budgeted for these revenues and expenditures. Insight PA has not demonstrated that it has the necessary financial support and planning to provide a comprehensive learning experience to its students.

(c) The applicant failed to provide evidence to support the insurance expenditure contained in the proposed budget.

Insight PA's proposed budget for the 2014-15 school year identifies a \$15,000 expenditure in the Support Services—Business—Other Purchased Services category, which is allocated to general liability insurance. As previously mentioned, Insight PA did not include any quotations or letters of intent regarding insurability in the application or a description of the types of insurance that are to be obtained or estimated coverage levels. Insight PA did not demonstrate that the amount budgeted for insurance is adequate.

(d) The applicant did not submit sufficient evidence of a five-year operating budget.

A cyber charter applicant is required to prepare and submit with its application a preliminary operating budget covering all projected sources of revenue and planned expenditures for the initial term of the charter - a five school year period. In its application, Insight PA stated that a five-year operating budget is included in Appendix 10 of the application. However, Appendix 10 only contains a proposed 2014-15 school year operating budget. Insight PA did not submit sufficient evidence to demonstrate it has the necessary financial support and planning to provide a comprehensive learning experience to its students during the initial term of the charter.

(e) The applicant failed to demonstrate the school's ability to manage and oversee finances appropriately.

The K12 Services Agreement states K12 will provide Insight PA with a variety of educational products and services, including financial and school administration services. More specifically, the K12 Services Agreement states K12 will fulfill the following responsibilities: (1) provide administrative staff; (2) arrange contracts on the school's behalf; (3) prepare budgets and periodic revenue and expenditure reports; (4) pay for all school expenses out of school funds; and, (5) perform necessary planning, forecasting, accounting and reporting functions as appropriate. However, Insight PA did not identify the K12 staff that will be providing these services, minimum qualifications and professional experience required of the staff or the amount of time dedicated by the K12 staff to provide services to Insight PA.

Although the K12 Services Agreement provides for Insight PA to monitor K12's performance and oversee the quality of Insight PA's operational and financial performance, Insight PA did not identify the individual(s) that would be responsible for this oversight from a general level or in day-to-day operations. Insight PA did not assign responsibility for the oversight of K12 to any Insight PA employee or member of the board of trustees, and Insight PA did not identify minimum qualifications and professional experience that an Insight PA employee or board member will be required to possess in order to adequately fulfill these responsibilities. Further, Insight PA's proposed budget does not identify a staff position or costs for business support staff that would reasonably be expected to be assigned the function of day-to-day review of K12's performance. Although Insight PA's current board of trustees may include an individual with knowledge and experience that would assist the board in understanding and addressing its fiscal duties, there is no indication that the individual could devote the amount of time necessary for proper fiscal oversight of Insight PA's operations or K12's performance.

Finally, the K12 Services Agreement states Insight PA will pay K12 15% of the school's revenue for administrative services rendered and seven percent of the school's revenue for technology services rendered. The K12 Services Agreement does not obligate K12 to provide Insight PA with a report regarding services provided to enable Insight PA to determine whether the services provided were consistent with the fees paid to K12.

Insight PA did not demonstrate that it has the necessary support and planning to properly oversee finance and accounting functions directly or under its proposed contract with K12.

(f) The applicant failed to provide evidence of proper internal controls.

The K12 Services Agreement states K12 will provide educational products and services, including: curriculum and learning management systems; teacher training, recruitment and management; financial and school administration services; and, technology services. K12 will pay all Insight PA expenses out of school funds and develop Insight PA's accounting system. Under these terms, K12 would be permitted to make payments to itself from Insight PA's funds for products and services provided to Insight PA under the K12 Services Agreement.

Under the K12 Services Agreement, K12 will establish and implement policies and procedures to maintain proper internal controls. However, the K12 Services Agreement fails to include a definition of "proper internal controls" or describe a system as to how financial functions will be appropriately segregated. Furthermore, Insight PA stated that it will comply with the required financial procedures, but did not describe the implementation of these procedures in accordance with the application requirement.

Insight PA did not demonstrate that it has systems in place, directly or through the K12 Services Agreement, for proper internal controls of its finances to ensure proper financial management.

XI. The applicant failed to provide evidence of a sufficiently developed professional education plan and teacher induction plan.

A cyber charter applicant must demonstrate that its application meets the requirements of 24 P.S. § 17-1747-A, which includes the requirements of 24 P.S. § 17-1719-A. A cyber charter applicant must also demonstrate that it has the capability, in terms of support and planning, to provide comprehensive learning experiences to all its students through effective and qualified educators and administrators.

(a) The applicant failed to provide evidence of a sufficiently developed professional education plan.

A cyber charter applicant must include with its application an identification of the proposed faculty and a professional development plan for the faculty. A cyber charter applicant must have a detailed professional education plan that explains, among other things, the professional education program. Insight PA did not include a detailed Professional Education Plan or other information sufficient to address a professional education program in the application.

In its application, Insight PA explained that K12's Academic Services Group will provide a variety of resources to support teachers in their roles. Insight PA did not sufficiently explain whether K12's Academic Services Group is the professional development provider or will simply provide support to the school's program. The K12 Services Agreement includes terms relating to K12's responsibilities concerning teacher effectiveness and training, but the K12 Services Agreement does not provide any detail concerning a professional development plan. Since it is unclear whether K12 will provide all the services for the professional development program, it is also unclear whether amounts in Insight PA's proposed budget are sufficient to address the financial needs for its program. Further, although the draft employee handbook

provided by Insight PA includes a brief section relating to staff professional development, the draft handbook does not include any additional information concerning a professional development plan.

If Insight PA plans to utilize K12 as its professional development provider, Insight PA has not provided evidence or statements that K12 is an approved professional development provider. Insight PA failed to provide a list of professional development offerings that will increase student learning, and there is insufficient information concerning the knowledge and skills educators will gain as a result of participating in the professional education program. Insight PA stated that ongoing professional development consists of monthly online workshops, but did not indicate the duration of professional development offerings. Insight PA did not include an explanation of how teachers will maintain active certification in the Commonwealth and obtain necessary credits required by law.

Insight PA did not demonstrate that it has the necessary support and planning to properly establish an appropriate professional development plan and provide appropriate professional development opportunities.

(b) The applicant failed to provide evidence of a sufficiently developed teacher induction plan.

A cyber charter applicant must have a detailed Teacher Induction Plan that explains the following: (1) the teacher induction council; (2) the assessment of inductees' needs; (3) the teacher induction program; (4) the oversight and evaluation of the teacher induction program; and, 5) recordkeeping. Insight PA did not include a detailed Teacher Induction Plan or other information sufficient to address a teacher induction program in the application.

Insight PA referred to several individuals and groups, including the Head of School, the Academic Administrator, the Professional Education Planning Committee (Committee) and K12's Academic Services Group, but did not sufficiently explain the roles these individuals and groups will serve in the teacher induction program and what type of support they will provide to inductees and the teacher induction program. Insight PA also stated that the Committee will monitor teacher induction during startup to ensure the professional education plan is meeting the needs of Insight PA's students. However, Insight PA failed to explain how it will ensure the teacher induction program is aligned to the inductees' needs and how Insight PA plans to assess the needs of its inductees on an on-going basis throughout the teacher induction program. Insight PA also stated new teachers will be matched with a mentor during teacher induction, but did not discuss how the mentor relationship will function during the teacher induction program. Insight PA did not describe how the teacher induction program will be monitored and evaluated to ensure it is meeting the inductees' needs as well as who will be the individual responsible for such. Insight PA did not describe how accurate records of participation in and completion of the teacher induction program will be maintained.

As previously mentioned, Insight PA did not identify how it will fund its teacher induction program.

Conclusion

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

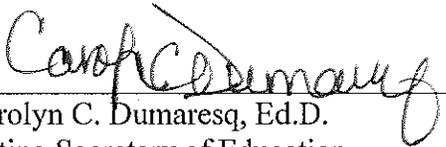
Insight PA may appeal this decision to the State Charter School Appeal Board (CAB) within 30 days of the date of mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 17-1746-A. If Insight PA files an appeal with CAB, it shall serve a copy of its appeal on the Department at the following address:

Pennsylvania Department of Education
Office of Chief Counsel
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333.

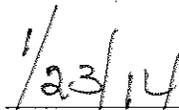
Alternatively, Insight PA may exercise a one-time opportunity to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). To allow sufficient time for the Department to review a revised application, a revised application must be received by the Department at least 120 days prior to the original 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). If Insight PA submits a revised application, it shall submit the revised application to the Department at the following address:

Pennsylvania Department of Education
Charter Schools Office
333 Market Street, 10th Floor
Harrisburg, PA 17126-0333.

A revised application shall contain: (1) the name of the applicant seeking review and identification of the submission as a revised application; (2) the date of mailing the revised application to the Department; (3) reference to the decision sought to be reviewed, including the date the decision was entered; and (4) a response to each deficiency listed in the decision.



Carolyn C. Dumaresq, Ed.D.
Acting Secretary of Education



Date Mailed