

**Provost Academy Cyber Charter School
Revised 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. A cyber charter school applicant has a one-time opportunity to revise and resubmit its application to the Department. 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 original proposed opening date for the cyber charter school.

The Provost Academy Cyber Charter School (Provost) timely submitted an application to operate as a cyber charter school (Application). The Department provided 30 days' notice of a public hearing held on November 21, 2013. The Department issued a decision to deny Provost's Application on January 23, 2014 (January 23, 2014 Decision). A revised application was timely submitted on April 23, 2014 (Revised Application).

However, as discussed in more detail in section II.(b) below, amended Articles of Incorporation attached to the Revised Application evidence that the non-profit corporation's name has been changed from Provost Academy Pennsylvania, Inc. to the Pennsylvania Academy Cyber Charter School, Inc. Therefore, because of the name change, throughout this decision the Department will not refer to Provost when discussing the Revised Application but will refer to the Applicant.

Decision

Based on a thorough review, the Department denies the Revised Application. Deficiencies were identified in the following areas:

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

A cyber charter applicant must demonstrate: sustainable support for the cyber charter school plan by teachers, parents or guardians and students; the capability, in terms of support and planning, to provide comprehensive learning experiences to students under the charter; that the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Ch. 4; that the application meets the requirements of section 1747-A of the CSL; and, the extent to which the cyber charter school may serve as a model for other public schools. The Applicant failed to provide sufficient information to demonstrate that the Revised Application should be granted.

I. The applicant failed to comply with application requirements.

(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.

The Department's January 23, 2014 Decision identified that Provost did not provide with its Application any insurance quotations, letters of intent to obtain insurance or other evidence to demonstrate that the amount budgeted for insurance is adequate or that Provost is able to obtain the required insurance coverage.

Although the Applicant included proposals for automobile, general liability, workers compensation, property and umbrella insurance in the Revised Application, the Applicant failed to address health insurance for school employees. In addition, the Department was not able to verify whether the proposals included directors' and officers' liability insurance.

(b) The applicant failed to provide information concerning the ownership of all facilities and offices of its proposed school and any lease arrangements.

A cyber charter applicant must provide the addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements. An executed lease is not required, but information about proposed facilities, such as letters of intent, documentation concerning the ownership of potential properties, or any proposed lease arrangements associated with proposed properties, are required.

The Department's January 23, 2014 Decision identified that Provost did not provide any information to demonstrate that it has initiated the process of leasing or purchasing sufficient facilities for an administrative office.

The Applicant included a lease proposal in the Revised Application that identifies the address of a facility to be used as an administrative office, the landlord and management agent, and the proposed terms of the lease. However, the proposed lease is for a 7-year term. Since the maximum term of a charter can only be 5 years, it is not responsible to enter into a lease agreement for a 7-year term.

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

A cyber charter applicant must include with its application the curriculum to be offered and a description of how the curriculum meets the requirements of 22 Pa. Code Ch. 4. This must include all required courses in all grade levels with a description of the course offerings and a demonstration that the programs will enable students to meet the academic standards under 22 Pa. Code Ch. 4. Planned instruction must be aligned to: (1) learning objectives, (2) eligible content and assessment anchors that will be measured on the Pennsylvania System of School Assessment (PSSA), Keystone exams, and local 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.

Beginning in the 2014-2015 school year, state assessment examinations, including the PSSA and Keystone exams, will test student proficiency based upon the Pennsylvania Core Standards included in the revised 22 Pa. Code Ch. 4 requirements. Accordingly, at a minimum, a cyber charter applicant must submit evidence that the curriculum to be offered and planned instruction to be delivered meet the requirements of 22 Pa. Code Ch. 4 in its revised form, including alignment to eligible content and assessment anchors to be measured on the PSSA and Keystone exams and to the Pennsylvania Core Standards.

The Department's January 23, 2014 Decision identified that Provost provided an outdated course catalog in its Application. The course catalog also failed to include course offerings and descriptions for grades four and five as well as some of the required course offerings for middle school students. Provost failed to provide information to demonstrate that its curriculum is aligned to the required academic standards in 22 Pa. Code Ch. 4.

In the Revised Application, the Applicant failed to provide sufficient information concerning the curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4. The Revised Application indicates that the school will serve grades 6-12 in year one, grades 5-12 in year two and grades 4-12 in years three, four and five. However, the Applicant did not include a list of course offerings with corresponding descriptions for grades 4 and 5. The Applicant did not include curriculum to be offered and a description of how the curriculum meets the requirements of 22 Pa. Code Chapter 4 for grades 4 and 5.

In addition, although the Applicant submitted Edison Learning's curriculum for grade 6, the Professional Services Agreement Between the Pennsylvania Academy Cyber Charter School and Edison Learning, Inc. (Edison Services Agreement) states that Edison shall provide services to students enrolled at the charter school, which shall be middle school and high school comprising grades 7-12. Notwithstanding the fact that the Edison Services Agreement does not include services for students in grade 6, the Department reviewed the grade 6 curriculum that the Applicant submitted in the Revised Application.

The Applicant failed to include all course offerings that a cyber charter school is required to offer to middle school and high school students in its course catalogue. The Applicant included a list of high school course offerings with corresponding descriptions that refer to the Common Core; however, the Common Core is not Pennsylvania's academic standards.

The Applicant did not include any course objectives, materials and resources for its middle school curriculum. The Applicant only provided some course objectives and no materials and resources for its high school curriculum.

The Applicant failed to provide a course crosswalk to demonstrate that the middle school curriculum is aligned to the Pennsylvania Core Standards and other Pennsylvania academic standards. Although the Applicant included a course crosswalk to demonstrate that the high school curriculum is aligned to the Pennsylvania Core Standards and other Pennsylvania academic standards, it is incomplete, as the course crosswalk does not contain all of the course offerings that a cyber charter school is required to offer high school students.

The Applicant failed to provide a course crosswalk to demonstrate that its middle school and high school curriculum are aligned with the eligible content and assessment anchors to be measured on the PSSA exams and local assessments.

(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.

The Department's January 23, 2014 Decision identified that Provost did not identify the number of courses required for elementary and secondary students.

In the Revised Application, the Applicant indicated that the school will serve grades 6-12 in year one, grades 5-12 in year two, and grades 4-12 in years three, four and five. The Applicant failed to identify the number of courses required for students in grades 4 and 5. In addition, although the Applicant identified the number of credits that students in grades 9-12 are required to take in order to graduate, it did not identify the number of courses required for high school students.

(e) The applicant failed to provide a sufficient explanation of its truancy policy and procedures.

A cyber charter applicant is required to include policies regarding truancy, absences and withdrawal of students. When a student has accumulated three unexcused absences, the cyber charter school must notify the resident school district so that the resident school district can initiate truancy proceedings if a subsequent unexcused absence occurs.

The Department's January 23, 2014 Decision identified that Provost stated it would not report a student as truant until the student failed to log in for ten consecutive days.

Although, in the Revised Application, the Applicant indicated that the school would report a student as truant after the third unexcused absence, the Applicant also indicated that an official notice of unexcused absence would be sent to the home by certified mail upon a student's fourth unexcused absence to notify the student's parent/guardian that a citation would immediately be sent to the magisterial district judge. However, if another unexcused absence occurs after a cyber charter school has reported three previously unexcused absences to a student's resident school district, the cyber charter school must notify the resident district of the additional unexcused absence and it is the responsibility of the student's resident school district to decide whether to initiate truancy proceedings and to notify the parents that a citation will be sent to the magisterial district judge.

In addition, the Applicant failed to indicate that it would, as required, notify the resident school district of a student's withdrawal after the student accrued ten consecutive unexcused absences.

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 an established and effective board of trustees.

(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.

The Department's January 23, 2014 Decision identified that Provost failed to provide an executed, finalized copy of the Edison Services Agreement. In addition, the information provided by Provost demonstrated a significant dependence by Provost on Edison that evidenced ultimate control of the school was with Edison and not Provost, thus, a lack of the independence required of a cyber charter school.

Even though the Applicant submitted an executed, finalized copy of the Edison Services Agreement in the Revised Application, the Edison Services Agreement still demonstrates a significant dependence by the Applicant on Edison. The Edison Services Agreement only refers to one of Edison's products, which is *eAcademy*®, that the Applicant will use to deliver its educational program. However, the Edison Services Agreement states that Edison will provide a majority of products and services needed to operate the proposed cyber charter school. Also, the Revised Application indicates that the school will use *eSchoolware*® as its learning management system and *eCourses*® as its curriculum, which are also Edison products. In addition, the policies within the Revised Application also bear the *provostacademy*® insignia and are copyrighted by Edison, evidencing that these are Edison's policies.

The Edison Services Agreement contains numerous termination provisions and requires that in the event of termination the corporate name and name of the charter school must be changed. However, as noted below in section II.(b), the name of the charter school, which is the incorporated entity, is Pennsylvania Academy Cyber Charter School, Inc.; thus, there is no basis for Edison to require that the name be changed in the event of the termination of the Edison Services Agreement. The Applicant failed to submit any information to demonstrate that its board of trustees is prepared and has 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, if the Edison Services Agreement were to be terminated.

There is also contradictory information provided in the Edison Services Agreement and the Revised Application. In the Edison Services Agreement, it states that Edison will provide services to students enrolled at Provost, which shall be a middle and high school comprising grades 7-12; however, the Revised Application states that it will serve students in grades 6-12 in year one, students in grades 5-12 in year two and students in grades 4-12 in year three, four and five. The Edison Services Agreement states that expected enrollment in school year 2017-2018 is 1,264; however, the Revised Application states that its expected enrollment in school year 2017-2018 is 2,364.

The Edison Services Agreement does not include Appendix A Performance Criteria or Appendix D Alternative Dispute Resolution, although they are identified as appendices to the Edison Services Agreement. It also states that the term of the Edison Services Agreement begins on April 21, 2014, and is coterminous with the charter; however, section 8.4 of the Edison Services Agreement indicates that the Applicant will be required to pay a management fee beginning in year 2013-2014. It further states that fees associated with the License Agreement will be billed separately from the management fee; however, although the License Agreement is to be attached as Exhibit 3, it is not attached and there is no information about what is included in the License Agreement or the amount or frequency of the licensing fee.

The Edison Services Agreement also states that the cyber charter school shall establish two bank accounts—a Board Account and an Operating Account. All External Public Funds, as that term is defined in the Edison Services Agreement, are to be deposited into the Operating Account. The Board is to require the bank to install an automatic “sweep” of the funds in the Operating Account into an account designated by Edison so that Edison can pay or reimburse the Operating Costs of the charter school. This is not an acceptable practice because funds of the cyber charter school should remain in a cyber charter school’s account(s); not placed into another account that is not a cyber charter school account and/or is an account of the management company. If a business manager or someone in the management company needs access to funds to pay operating expenses, that person, in addition to a cyber charter school employee or Board member, should be designated as having access to the cyber charter school account for purposes of paying operating expenses.

(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, including the articles of incorporation filed with the Pennsylvania Department of State, bylaws, and the proposed governing body or board of trustees.

The Department's January 23, 2014 Decision identified that Provost did not submit Articles of Incorporation filed with the Pennsylvania Department of State. The articles did not display the words "charter school" in the name of the proposed cyber charter school and Provost referred to the proposed cyber charter school with different names throughout the Application.

The Applicant submitted Articles of Incorporation that were filed with the Pennsylvania Department of State on September 25, 2013, showing the name of the corporation to be Provost Academy Pennsylvania, Inc. The Applicant also submitted an amendment to the Articles that was filed with the Pennsylvania Department of State on April 22, 2014, showing the name of the corporation to now be Pennsylvania Academy Cyber Charter School, Inc. The Revised Application and many of the policies and other attachments refer to the proposed cyber charter school as Provost Academy Cyber Charter School. However, the Edison Services Agreement is between Edison and the Pennsylvania Academy Cyber Charter School, Inc. and the bylaws are those of the Pennsylvania Academy Cyber Charter School, Inc. The Hope Agreement, on the other hand, is with Provost Academy Cyber Charter School.

Thus, although the corporation name was changed to Pennsylvania Academy Cyber Charter School, Inc., the Applicant continues to use the name of Provost Academy Cyber Charter School in the Revised Application and in many of the attachments and this is not permissible. A cyber charter school is to be organized as a public nonprofit corporation; thus, the corporation is the cyber charter school entity and the proper name of the cyber charter school is that of the corporation. Not only would the use of different names for the cyber charter school be confusing, it could lead to unintended consequences, such as invalid contracts or agreements if the entity signing as the cyber charter school is not the corporate entity registered with the Pennsylvania Department of State.

The Department's January 23, 2014 Decision identified that Provost's board of trustees did not adopt the bylaws. The bylaws contained provisions that were inconsistent, authorized at a minimum, the appearance of a conflict of interest, and contained a dissolution provision inconsistent with the CSL.

In the Revised Application, the Applicant submitted a document that evidenced Organizational Action of the Directors on September 25, 2013, which identified the fiscal year as beginning on July 1 in each year and ending on June 30 in each year. However, the bylaws attached to the Revised Application are contradictory in that they identify the fiscal year as beginning on January 1 each year and ending on December 31 each year.

The Applicant failed to address the deficiency identified with the provisions that create, at a minimum, the appearance of a conflict of interest. Not only is there an appearance of a conflict of interest, the bylaws also are contradictory because in one provision it states that no member of the board of trustees shall be employed in any capacity by the charter school or receive any compensation for services rendered to the charter school. However, another provision of the bylaws states that the board president shall be the chief executive officer of the charter school.

In addition, the Applicant failed to correctly address the deficiency identified with the dissolution provision. The new language regarding dissolution is not in compliance with the CSL.

III. The applicant failed to demonstrate that the school 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 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.

The Department’s January 23, 2014 Decision identified that Provost only included a copy of a petition of support with 12 signatures for its cyber charter school plan, which failed to demonstrate support for the cyber charter school plan and necessary support and planning to provide a comprehensive learning experience to students.

In the Revised Application, the Applicant provided only 8 letters from parents with a special needs child who support the Applicant’s commitment to improving the educational experience for children with special needs. With the Applicant’s first year enrollment anticipated to be 400 students, only 8 letters 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.

In addition, although the Applicant stated in the Revised Application that it no longer intends to use support centers and will only have one physical facility for an administrative office, the letters in the Application refer to Provost operating support centers. Thus, the letters from the Application should not be used to count the number of people stating support for the cyber charter school plan because the expectation of those signing the letters was that there would be support centers, which have been removed from the Revised Application. Nevertheless, even if the 8 signatures on the letters in the Application were included to assess support for the cyber charter school plan, this would still not demonstrate sustainable support.

IV. 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 compliance with technology requirements applicable to and necessarily part of the operation of a cyber charter school.

(a) *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 or no internet available to the home.

The Department's January 23, 2014 Decision identified that Provost failed to identify specific internet connectivity requirements and options that will be made available to students who cannot obtain high-speed internet access, such as satellite connections or air cards, at Provost's expense to ensure these students have broadband connectivity.

In the Revised Application, the Applicant only stated that advisors will assist students with obtaining internet access but failed to discuss options that will be made available to students who cannot obtain high-speed internet access.

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

A cyber charter school must 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.

The Department's January 23, 2014 Decision identified that Provost's Technology Model document in Attachment F of the Application contained assumptions about the number of students receiving computers that were inconsistent with enrollment projections.

Although the Applicant stated that all students would receive computers, the Applicant failed to submit a revised Technology Model document in its Revised Application which reflects that the number of students receiving computers will be consistent with enrollment projections.

The Department's January 23, 2014 Decision identified that Provost failed to demonstrate how the USB tablet will complement the equipment being provided. Provost also failed to specify all necessary minimum technology standards, such as the web browser, operating system and browser settings, to demonstrate that students will have an effective and equitable educational experience.

The Applicant failed to address these deficiencies in the Revised Application. Although the Applicant indicated that internet connection must provide a minimum of 5 Mbps for downloads and one Mbps for uploads, 1.5 Mbps is the recommended minimum technical standard for internet connectivity.

(c) 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.

The Department's January 23, 2014 Decision identified that Provost would only provide limited internet reimbursement to students and only budgeted \$25 per enrolled student per year. Provost also failed to provide a policy addressing the amount and frequency of internet reimbursement.

The Applicant provided an Internet Subsidy Policy in the Revised Application. It states that the school may provide a household a subsidy of up to \$30 per month to be applied to Internet costs. The Applicant failed to include any information to ensure that the full cost of internet reimbursement would be provided even if those costs exceeded the identified \$30 per month. It also states that the school will process subsidy payments twice per year. Biannual payments may cause financial hardship for families paying monthly internet costs for several months before they are provided reimbursement. The budget that the Applicant submitted in the Revised Application does not include any expenditure identified as being for internet reimbursement.

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

As stated above, the Applicant failed to adequately correct this deficiency in its Revised Application.

VI. The applicant failed to demonstrate that it is prepared to meet the needs of students 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 reasonable knowledge of the requirements for providing special education programs and services.

A cyber charter applicant must have a general understanding of the special education program design, process, service delivery and implementation. 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.

The Department's January 23, 2014 Decision identified that Provost would conduct its special education program in accordance with Colorado law. In addition, Provost failed to submit policies or procedures in key areas of special education to demonstrate a working knowledge of how a special education program must operate.

In the Revised Application, the Applicant refers to Colorado law. The Applicant failed to include policies and procedures, or a narrative that reasonably address Graduation and Dropout, Parent Training and Personnel Training, which are key areas of a special education program.

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

A cyber charter school is required to accept students who reside anywhere within the Commonwealth and provide all necessary services to those students. A cyber charter applicant must identify all actual or potential service providers that will or may provide special education or related services to children with disabilities along with the services to be provided, pricing, location, transportation and qualifications.

The Department's January 23, 2014 Decision identified that Provost failed to provide an executed, finalized copy of the agreement between Provost and Hope (Hope Agreement). The Department's January 23, 2014 Decision also identified deficiencies with the proposed Hope Agreement.

Although the Applicant provided an executed, final Hope Agreement in the Revised Application, the Department identified deficiencies with provisions of the Hope Agreement. As discussed previously, the Hope Agreement is between Hope and Provost Academy Cyber Charter School; however, the name of the corporate entity that is the cyber charter school is now Pennsylvania Academy Cyber Charter School, Inc. Notwithstanding that the Hope Agreement is not executed by the correct entity as the cyber charter school, it fails to explain the manner in which Hope will

deliver services to the cyber charter school students. Although the Revised Application indicates that the Applicant will provide transportation to students or will transport service providers to students' homes, the Hope Agreement does not contain provisions that explain to where the Applicant will transport its students for Hope to provide services or incorporate the responsibility of the Applicant to provide Hope with transportation to student homes. In addition, the Hope Agreement does not explain the manner in which Hope will provide services to the Applicant's students online. A Hope representative testified at the November 21, 2013 hearing about Hope's ability to provide related services online, but the Hope Agreement does not provide any indication of services being provided to students online. Additionally, the Revised Application indicates that Hope will provide all special education and related services, but the Schedule of Services attached to the Hope Agreement only lists psychological evaluation, speech therapy, occupational therapy and physical therapy as the services that Hope will provide to the Applicant's students. The Applicant failed to identify any other service providers along with services to be provided, pricing, location, transportation and qualifications, which will or may provide special education and related services to its students beyond those to be provided by Hope.

- (c) *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 and related services personnel to meet the needs of the projected special education student population.

The Department's January 23, 2014 Decision identified that Provost failed to demonstrate that it would have enough special education teachers and support staff to meet the needs of students with disabilities.

In the Revised Application, the Applicant has modeled a ratio of one special education advisor to 40 special education students, one regular education advisor to 100 regular education students, and one teacher to 150 students in each subject area. The Applicant explained that this would imply, for example, that in year one with 300 special education students and 100 regular education students, the Applicant would employ 10 special education advisors, one regular education advisor, 12 core subject area teachers and 10 special education teachers. It appears that each special education teacher would have, on average, a caseload of 30 students. As stated in the January 23, 2014 Decision, although cyber charter schools are not subject to Chapter 14 of Pennsylvania regulations, the Department typically evaluates the adequacy of special education personnel by comparing student-to-teacher ratios to the caseload chart in the Pennsylvania regulations. The ratio identified above greatly exceeds the maximum number of students allowed on a teacher's caseload even for those students who have the mildest disability.

(d) 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 students with disabilities for special education and related services.

The Department's January 23, 2014 Decision identified that Provost failed to provide information beyond its Support Centers regarding the required continuum of placement options.

The Applicant identified a continuum of placement options in the Revised Application, but failed to identify actual or potential service providers that would provide these services along with services to be offered, pricing, location, transportation and qualifications. The Applicant also failed to demonstrate a general understanding of the respective responsibilities between a cyber charter school and alternative placement providers.

(e) The applicant failed to provide sufficient information regarding parent training.

A cyber charter applicant must ensure that parent counseling and training are offered to assist parents in understanding their children's special needs, to provide parents with information about child development, and to help parents acquire the necessary skills that will allow them to support the implementation of their children's IEP.

The Department's January 23, 2014 Decision identified that Provost failed to include any information as to the types and extent of training that will be made available to parents who have children with disabilities.

Although, in the Revised Application, the Applicant listed some areas in which the school would train parents in special education, the Applicant failed to explain how these areas would address the required areas of training listed above. In addition, the Applicant failed to identify how often training would be made available to parents and the manner in which parents would be trained.

(f) 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 are appropriately and adequately prepared to provide special education and related services to students with disabilities.

The Department's January 23, 2014 Decision identified that Provost failed to discuss staff training focused on its special education program or meeting the needs of special education students.

Although the Applicant listed in the Revised Application some special education areas in which the school would train staff, the Applicant failed to explain how training in these areas would help personnel fulfill their job responsibilities appropriately and adequately. In addition, the

Applicant failed to identify how often training would be made available to personnel and the manner in which personnel would be trained.

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

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.

The Department's January 23, 2014 Decision identified that Provost failed to provide sufficient evidence of an ESL Program that is appropriate for the education of ELL students. Provost provided only a general explanation of how it will identify, instruct and exit ELL students.

In the Revised Application, the Applicant explained that it would contract with the K12 ESL Department of the Allegheny Intermediate Unit (AIU) and Edison for ESL services. However, the Applicant failed to explain the services to be offered, location, pricing, qualifications, and transportation and how these services would supplement the Applicant's ESL program.

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

The Department will use the School Performance Profile (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 complying 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.

(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 objectives for subgroups and content areas defined by federal and state requirements. In addition, a cyber charter school must explain strategies and plans to achieve the academic goals for all of its students, defined subgroups and content areas.

The Department's January 23, 2014 Decision identified that Provost failed to set measurable academic goals for all subgroups and content areas and measurable non-academic goals for each year of operation. Provost also failed to explain how the school plans to achieve these goals.

In the Revised Application, the Applicant failed to explain how the school plans to achieve its measurable academic goals and some of its measurable non-academic goals.

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

A cyber charter applicant must demonstrate an understanding of the Elementary and Secondary Education Act Flexibility Waiver (ESEA Flexibility Waiver), including the accountability measures, and the Department's planning tools, including SPP. 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.

The Department's January 23, 2014 Decision identified that Provost's Application did not include any information acknowledging the ESEA Flexibility Waiver and the Department's planning tools and that Provost's representatives did not demonstrate a working knowledge of these programs and resources.

The Applicant revised the school's measurable academic and non-academic goals in the Revised Application, claiming these goals incorporate the annual measurable objectives of the ESEA Flexibility Waiver. However, the Applicant incorrectly articulated these objectives. For example, the Applicant indicated that the school will maintain high attendance, but the accountability measure within the ESEA Flexibility Waiver is a 90 percent attendance rate. The Applicant also indicated that each student would demonstrate academic growth appropriate for a year in school. Although this is a performance indicator used to calculate an SPP score, this is not one of the federal accountability measures. The Applicant also failed to explain 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.

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

(a) *The applicant failed to correctly categorize budget items.*

The Department's January 23, 2014 Decision identified that Provost's Personnel Expenses document in Attachment F in its Application incorrectly categorized budget items.

The Applicant failed to submit a revised Personnel Expenses document in the Revised Application; therefore, the Applicant failed to address this deficiency because the Department is not able to verify that the Applicant correctly categorized budget items in this document. In addition, the Applicant incorrectly categorized budget items on its revised budget on PDE form 2028 that it submitted with the Revised Application. For example, the budget shows no revenue from local sources and shows 86 percent of its revenue coming from state sources in the category

of “Special Education Funding for School Aged Pupils.” This mis-categorization demonstrates a fundamental misunderstanding of the way cyber charter schools receive revenue.

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

The Department’s January 23, 2014 Decision identified that Provost failed to provide a letter of intent from a financial institution or any other information to evidence that there have been discussions with a financial institution about securing a loan to fund start-up costs. Provost also failed to provide any other evidence of start-up funding prior to incurring start-up costs.

Although the Applicant’s revised budget includes \$280,854 in Debt Service—Other Objects (5100-800), there is no revenue listed for the “Other Financing Sources” category. Thus, the budget does not show any loan proceeds or other revenues corresponding to this debt service. In addition, the revised budget only includes state and federal revenue, which are not likely to materialize for several months after the Applicant would begin incurring start-up costs.

The Department’s January 23, 2014 Decision identified contradictory information about start-up funding and costs in the Start-up budget, Financing document, Non-Personnel Expense document, and Non-Personnel Summary document.

The Applicant failed to submit any revisions to these documents in the Revised Application; therefore, the Department is unable to determine that the Applicant addressed these deficiencies in the Revised Application.

(c) The applicant failed to provide expenditure estimates that are sufficient, reasonable, and consistent with the rest of the Revised Application.

The Department’s January 23, 2014 Decision identified Provost’s expenditure estimates within its start-up budget, Financing Document, Non-Personnel Expense document and Non-Personnel Summary document as insufficient, unreasonable and inconsistent with the rest of its Application.

As stated above, the Applicant failed to submit any revisions to these documents in the Revised Application. Thus, the Department is unable to determine that the Applicant addressed these deficiencies in the Revised Application.

Based upon the information that the Applicant did submit with the Revised Application, the Applicant failed to provide expenditure estimates that are sufficient, reasonable, and consistent with the rest of the Revised Application. In addition, the Applicant only provided a budget for year one of the school’s operations rather than a required five-year operating budget.

In the Revised Application, section 7.2 of the Edison Services Agreement provides that the Applicant will procure, deliver and install all technology and equipment required for Edison to implement its technology platform. Presumably, technology and equipment purchases would be budgeted in Regular Programs—Property (1100-700). The amount budgeted for this line item is \$205,429, which averages \$514 for each of the 400 students projected to enroll in year one. This

is \$186 less than the estimated cost per student identified in the Technology Overview in Attachment G of the Revised Application. The Technology Overview in Attachment G of the Revised Application indicates that the Applicant will provide each student with a laptop with an estimated cost of \$600, a printer/scanner with an estimated cost of \$50, and a mouse with an estimated cost of \$50. In addition, there is no money budgeted for Special Programs--Property (1200-700) or Administration—Property (2300-700) to cover the \$74,400 shortfall. Finally, there are no supplemental schedules or other information that explains how the total projected cost of technology and equipment would be covered.

The Applicant failed to include an amount budgeted that corresponds to the total estimated premium of \$29,413 in the insurance proposal in Attachment AA of the Revised Application. Presumably, insurance premiums should be budgeted in the budget category of Administration (2300). However, there are only four line items within this budget category that contain budgeted amounts of \$200,000 for salaries, \$47,526 for employee benefits, \$10,000 for other purchased services and \$25,000 for supplies.

The Revised Application indicated that the Applicant would employ guidance counselors. Presumably, costs associated with employing guidance counselors should be budgeted in the budget category of Support Services (2100) or Guidance Services (2120), but there are no expenditures budgeted in these categories.

The Applicant failed to provide supporting schedules or any other information to demonstrate that its Special Programs (1200) budget category sufficiently budgets for the following expenditures: (1) special education teacher salaries and benefits; (2) contracted services, including services to be provided by Hope and AIU's K12 ESL Department; (3) travel for any in-person meetings or services that are determined to be necessary; (4) any assistive devices that are determined to be necessary; and (5) counseling and training for parents.

The Applicant failed to provide sufficient information for the Department to evaluate the adequacy of the amounts budgeted for Edison's educational program, including the learning management system and curriculum. The Edison Services Agreement in the Revised Application provides that the management fee does not cover any operating costs, including per enrolled student cost for the use of *eAcademy*® which shall be bundled separately pursuant to the License Agreement. However, as mentioned previously, the Applicant failed to submit a License Agreement with the Revised Application. Moreover, the Applicant failed to include supplementary information, such as a price list, that shows the costs associated with Edison's products and services.

The Applicant budgeted \$16,000 for federal revenue coming from "ARRA—Title I Part A & D." This is inappropriate because the Department has already allocated and committed these funds.

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

The Department's January 23, 2014 Decision identified that Provost did not demonstrate that individuals responsible for finance and accounting functions would be qualified and experienced in charter school finance.

The Applicant provided a "Compendium of Services" document with the Revised Application that indicates a School Operations Manager (SOM) would be responsible for the financial and operational management of the school, including budget management, payroll, enrollment and procurement. The SOM would report to the school principal and to Edison's Controller. This dual reporting relationship, at a minimum, creates the appearance of a conflict of interest. In addition, the Applicant failed to provide the minimum qualifications and professional experience of the school principal—or any other of the Applicant's staff or board member—to demonstrate that they would be able to adequately oversee Edison's performance, nor does this appear to be a responsibility memorialized in the Applicant's bylaws.

The Department's January 23, 2014 Decision identified that the Edison Services Agreement submitted with the Application did not obligate Edison to provide Provost with a report regarding services provided to enable Provost to determine whether the services provided are consistent with the fees paid.

The Edison Services Agreement states that Edison will provide the Board with a report of services rendered under the Edison Services Agreement within 30 days following the end of the fiscal year. This is not an acceptable practice. Edison should provide detailed invoices to the Applicant throughout the year evidencing the services that are being provided to the Applicant so the Applicant can verify that services for which it is being billed are actually being provided.

The Department's January 23, 2014 Decision identified that Provost would not be provided with financial statements by Edison frequently enough to allow Provost's board of trustees to identify potential financial challenges and develop plans for managing such challenges in a timely manner.

The Applicant did not address this deficiency in the Revised Application.

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

The Department's January 23, 2014 Decision identified that Provost did not demonstrate that it has systems in place, directly or through Edison, for proper internal controls of Provost's finances to ensure proper financial management.

Although the Applicant indicated that a business manager would be assigned to the school to work with leadership to develop a business policies and procedures manual, the Applicant failed to provide any information to demonstrate that this manual would be in place prior to the commencement of services to be provided under the Edison Services Agreement. In addition, it is unclear whether the business manager would be an employee of the school because in the

Revised Application it states that the business manager is assigned to the school. This manual must be developed independently of any service provider to the school.

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

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

A cyber charter applicant must identify the proposed faculty and a professional development plan for the faculty. A cyber charter applicant must have a detailed professional education plan that explains the following: (1) the professional development provider and participants; (2) the assessment of student needs to develop the professional development program; (3) the professional development program; and, (4) the evaluation of the professional development program.

The Department's January 23, 2014 Decision identified that Provost did not include a detailed Professional Education Plan or other information sufficient to address a professional education program in the Application.

The Applicant submitted an inadequate Professional Development Plan in the Revised Application. The Applicant only identified the individuals who would provide professional development, not the organization or institution. The Applicant failed to identify the types of student needs that the school's professional development would address, including the data that the school would use to identify student needs and what the professional development would be designed to accomplish. Although the Applicant provided a list of professional development offerings and identified the knowledge and skills that educators would gain as a result of participating in each offering, the Applicant failed to explain how the content would be based on research and best practices. The Applicant failed to identify the follow-up activities in which participants would engage to ensure successful implementation of the knowledge and skills taught and the tools that the school would use to evaluate the effectiveness of offerings in addressing student needs.

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

A cyber charter school 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.

The Department's January 23, 2014 Decision identified that Provost did not include a detailed Teacher Induction Plan or other information sufficient to address a teacher induction program in the Application. Provost also failed to demonstrate any knowledge of the Department's induction requirements or the plan components.

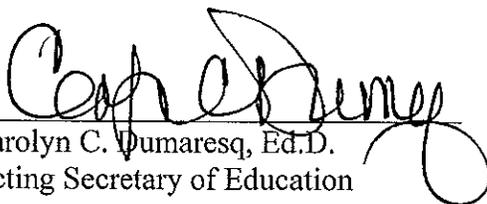
The Applicant failed to address this deficiency in the Revised Application.

Conclusion

Based on the deficiencies identified above, which were identified in the Department's January 23, 2014 Decision and not addressed or sufficiently corrected in the Revised Application, the Revised Application is denied.

The Applicant 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 the Applicant 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.



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

6-20-14
Date Mailed