



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

January 13, 2023

VIA CERTIFIED MAIL AND E-MAIL

Mr. Marc LeBlond
Pennwood Cyber Charter School
258 Brentwood Drive
Cogan Station, PA 17728
marc.leblond@trincoll.edu

Re: Pennwood Cyber Charter School Application Decision

Dear Mr. LeBlond:

After reviewing the application for Pennwood Cyber Charter School, it is the decision of the Pennsylvania Department of Education (“Department”) to deny the application. Please review the pages that follow for more information.

If you have any questions, please contact the Department’s Division of Charter Schools at ra-charterschools@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Hagarty".

Eric Hagarty
Acting Secretary of Education

Enclosure

cc: Dr. Jeffrey Fuller, Deputy Secretary, OESE
Dr. Carrie Rowe, Advisor to Deputy Secretary, OESE

Background

Pursuant to the Charter School Law (“CSL”), 24 P.S. §§ 17-1701-A – 17-1751-A,¹ the Pennsylvania Department of Education (“Department”) has the authority and responsibility to receive, review, and act on applications for the establishment of cyber charter schools. 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 operations. Following submission of an application, the Department is required to: 1) hold at least one public hearing on the application; and 2) grant or deny the application within 120 days of its receipt.

Pennwood Cyber Charter School (hereinafter referred to as “Pennwood” or “Applicant”) submitted an application to establish a cyber charter school (“Application”) on September 26, 2022.¹ On October 1, 2022, the Department provided notice of a public hearing for cyber charter school applications. In accordance with the public notice, the Department received comments in opposition to and in support of the Application. The Department held a public hearing for Pennwood’s application on November 10, 2022 (hereinafter referred to as “November 10 Hearing”).

Decision

The CSL, 24 P.S. § 17-1745-A(f)(1), requires the Department to evaluate a cyber charter school application against the following criteria:

- (i) The demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians, and students.
- (ii) The capability of the cyber charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students under the charter.
- (iii) The extent to which the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.
- (iv) The extent to which the application meets the requirements of section 1747-A.
- (v) The extent to which the cyber charter school may serve as a model for other public schools.

24 P.S. § 17-1745-A(f)(1).

Based on a review of the written application, questions and responses recorded at the November 10 hearing, and public comments concerning the application, the Department denies Pennwood’s application. While a single deficiency would be grounds for denial, the Department has identified deficiencies in several criterion. Discussion of the specific deficiencies follows.

¹ The Application was received on September 26, 2022.

Criterion 2: Pennwood lacks the capability, in terms of both support and planning, to provide comprehensive learning experiences to students.

For this criterion, the Department evaluates evidence that the applicant can develop, implement, and sustain comprehensive learning experiences to students, and that the applicant's board of trustees will hold real and substantial authority over staff (*Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400 (Pa. Cmwlth. 2003); *Sch. Dist. of York v. Lincoln-Edison Charter Sch.*, 798 A.2d 295 (Pa. Cmwlth. 2002); *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131 (Pa. Cmwlth. 2001); and *West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 760 A.2d 452 (Pa. Cmwlth. 2000), *aff'd* 812 A.2d 1172 (Pa. 2002)). Pennwood fails to demonstrate this capacity in at least three key areas. Specific findings are as follows:

A. The Applicant fails to demonstrate necessary financial support and planning.

A cyber charter school applicant is required to provide a preliminary operating budget, inclusive of projected revenue sources (24 P.S. § 17-1719-A). Revenue and expenditure estimates must be sufficient and reasonable to demonstrate the applicant's capability, with respect to both financial support and planning, to provide comprehensive learning experiences for students. Submitted budgets should be complete and accurate, and the applicant should explain how it developed its revenue and expenditure estimates.

While Pennwood's application did include a budget, it does not appear to include all revenues and expenditures and it is difficult to reconcile the assumptions underlying it. The Application's budget narrative states that it intentionally did not include federal revenues, "[w]hile the School intends to apply for and receive federal funding, federal revenues were not included in this budget" (Application, Appendix P, p. 209). Federal title funds, including Title I funds, are based on enrollments of low-income students, despite the fact that the application anticipates that over 45 percent of students will meet federal free and reduced lunch guidelines (Application p. 109). The application also does not include any revenue estimates for federal Individuals with Disabilities Education Act funds (IDEA), despite stating that "16 percent was used as the anticipated percentage of Special Education students for Pennwood in its first year of operation" (Application, p. 118). During the hearing Pennwood confirmed that they did not include either title revenues or IDEA revenues because they have seen that PDE has found fault with the assumptions that other applicants have used and wanted to show that the school ". . . is fit to expound without being supported by federal dollars" (Transcript, pp. 94-95).

An additional confounding instance is that although the provided budget narrative did not state the per-pupil tuition rates that were used for regular and special education in order to project revenues, the application does state that local revenues were calculated using 2021-22 statewide average rates and estimated a reduction in the average per-pupil state funding (Application, Appendix P, p. 209). During the hearing, the Applicant clarified that they used \$12,679 for regular education tuition in Year 1, \$28,506 for special education tuition in Year 1, and applied a 5 percent reduction to those rates (Transcript, pp. 92-93). The Application states that the rates in the budget assume ". . . a reduction in the average per pupil state funding of 5 percent from current levels" (Application, Appendix P, p. 209). It is not clear whether the applicant took the average statewide charter tuition rates and reduced them by 5 percent as part of an overall

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conservative approach or were assuming that the Commonwealth would appropriate 5 percent less in funding to districts, which would impact the tuition rates. Without additional information, it is not possible to determine what the applicant intended and properly evaluate the budget assumptions.

In addition, the regular education and special education rates used in estimating revenues do not match the information provided by the Applicant, as shown in the table below. When dividing the projected revenue by the enrollment provided in the application for regular and special education, Pennwood appears to have used an actual estimate of \$12,278 for a per-pupil rate for regular education students and a special education rate of \$29,682 for the FY2023-24 year. This does not match the tuition rates stated during the hearing, with or without a five percent reduction applied to them.

Table 1. Projected Per-Pupil Rates, 2023-24 to 2027-28

	2023-24	2024-25	2025-26	2026-27	2027-28
Regular Education Revenue- Pennwood Budget	\$18,563, 862	\$30,720, 027	\$45,859, 758	\$63,028, 933	\$83,348, 332
Special Education Revenue - Pennwood Budget	\$8,548,5 03	\$15,161, 116	\$24,185, 288	\$35,426, 715	\$49,812, 694
Regular Education Enrollment ²	1,512	2,490	3,690	5,022	6,560
Special Education Enrollment	288	510	810	1,178	1,640
<i>Calculated Regular Ed Per-Pupil Rate</i>	<i>\$12,278</i>	<i>\$12,337</i>	<i>\$12,428</i>	<i>\$12,551</i>	<i>\$12,706</i>
<i>Calculated Special Ed Per-Pupil Rate</i>	<i>\$29,682</i>	<i>\$29,728</i>	<i>\$29,858</i>	<i>\$30,074</i>	<i>\$30,374</i>
Percent Increase		0.49%	0.74%	0.99%	1.23%
<i>Budgeted Regular Ed Per-Pupil Rate³</i>	<i>\$12,045</i>	<i>\$12,104</i>	<i>\$12,193</i>	<i>\$12,313</i>	<i>\$12,465</i>
<i>Budgeted Special Ed Per-Pupil Rate</i>	<i>\$27,081</i>	<i>\$27,212</i>	<i>\$27,413</i>	<i>\$27,683</i>	<i>\$28,024</i>
Percent Increase		0.49%	0.74%	0.99%	1.23%

² Enrollment estimates were derived based on the total projected enrollment and percentage anticipated to be special education, including changes year over year as outlined in the application.

³ The percent increases that were derived for the calculated per-pupil rates were applied to the budgeted per-pupil rates. These percentage changes appear to match the applicant's testimony of increasing one quarter of a percent each year (Transcript, p. 93).

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Additionally, the enrollment projections for Pennwood are aggressive, starting with 1,800 students in Year 1 and growing to 8,200 students by Year 5. The application states that anticipated annual enrollment assumes a net annual increase similar to that of other Pennsylvania cyber charters during their first five years (Application, Appendix P, p. 209). However, it did not provide examples of which schools were used for their determination, nor provide data to support their enrollment assumptions. During the hearing, the applicant stated that they used only Pennsylvania-based Pearson schools as the basis for their projections (Transcript, p. 92). If the school's enrollment projections are accurate, this would make Pennwood the 3rd largest cyber school in the Commonwealth by Year 5 based on the most recent October 1st 2021-22 data reported by the Department of Education, behind Commonwealth Charter Academy and Pennsylvania Cyber.⁴ The projected growth in enrollment – an increase of more than 356 percent between Year 1 and Year 5 appears to anticipate cyber charter enrollment continuing to increase at rates of growth that were seen during the COVID-19 pandemic, where statewide enrollment grew from 38,266 to almost 61,000.⁵ While the specific names of the Pennsylvania-based Pearson schools that were used to develop the projection were not shared in the application or during the hearing. As one example, Reach Cyber Charter School, which was previously a Pearson-operated school, opened in the 2016-17 school year and reached enrollment levels similar to those projected by Pennwood in 2020-21 – the result of a large spike in enrollment during the pandemic.

Table 2. Reach October 1 Enrollment

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Reach Oct. 1 Enrollment	714	1,898	2,759	3,393	8,138	6,979

Relatedly, it is not possible to determine if certain personnel costs are sufficient, reasonable, and consistent with the rest of the application. While the application's budget narrative identifies some assumptions for how expenditures are estimated in the application, supporting explanatory detail is often absent or there is a conflict between what is included in the application and what was presented at the hearing. For example, there are inconsistencies between the information presented in the application and at the hearing as to the personnel estimates used in determining staffing ratios. The application includes a staffing chart on p. 167 that shows a student to teacher ratio of 21:1. Based on the application, this ratio appears to be calculated based on total teaching staff and total enrollment, as shown in Table 3, below.

⁴ Based on the data reported by PDE, Commonwealth Charter has an enrollment of 18,090 students and Pa Cyber has an enrollment of 10,469 students.

⁵ Based on October 1 enrollment reported by PDE.

Table 3. Proposed Staffing Ratios

	2023- 24	2024- 25	2025- 26	2026- 27	2027- 28
Teachers (K-5)	14	23	38	56	78
Teachers (6-12)	44	73	106	141	182
Special Education Teachers	16	28	45	65	91
English Language Learner (ELL) Teachers	1	2	3	3	5
Advisory Teachers	9	15	21	28	36
Total Teachers	84	141	213	293	392
Total Enrollment	1,800	3,000	4,500	6,200	8,200
Student to Teacher Ratio	21	21	21	21	21

These calculated student to teacher ratios appear to be blended, meaning that they include all teaching positions, including general education, special education, and ELL teachers. However, during the hearing, the applicant stated that the student to teacher ratios are not blended, and that “. . . special education and ELL operate on their own blending and have a ratio of two to one. The elementary ratio is 35 to one” (Transcript, p. 101). The elementary ratio provided during the hearing is not presented elsewhere in the application and no separate secondary student to teacher ratios were included in the application or mentioned during the hearing, making it difficult to determine which ratios were used in determining the number of positions needed.

The application states that Pennwood projects that 16 percent of enrollment will be special education, and that will increase by a percentage point each year, which was confirmed during the hearing (Transcript, p. 90). The application also states that one percent of enrollment will be ELLs which was confirmed during the hearing (Transcript, p. 90). Using these percentages, the calculated student to teacher ratios for each population of enrolled students is shown in Table 4, below.

Table 4. Staffing Ratio Analysis, Instructional Positions

	2023-24	2024-25	2025-26	2026-27	2027-28
Projected Total Enrollment - Application	1,800	3,000	4,500	6,200	8,200
Calculated General Education Enrollment	1,512	2,490	3,690	5,022	6,560
General Education Teachers	58	96	144	197	260
<i>Calculated Student to Teacher Ratio - General Ed</i>	<i>26</i>	<i>26</i>	<i>26</i>	<i>25</i>	<i>25</i>
Calculated Special Education Enrollment	288	510	810	1,178	1,640
Special Education Teachers	16	28	45	65	91
<i>Calculated Student to Teacher Ratio - Special Ed</i>	<i>18</i>	<i>18</i>	<i>18</i>	<i>18</i>	<i>18</i>
Calculated ELL Enrollment	18	30	45	62	82
ELL Teachers	1	2	3	3	5
<i>Calculated Student to Teacher Ratio - ELL</i>	<i>18</i>	<i>15</i>	<i>15</i>	<i>21</i>	<i>16</i>
Student to Teacher Ratio - Application	21	21	21	21	21

Given the differences in how the student to teacher ratios are described in the application, it is not possible to determine the methodology utilized regarding the number of instructional positions included in the staffing plan and appropriately evaluate the Application. In addition, the calculated special education and ELL ratios based on enrollment assumptions in the application do not match the two to one ratio that was mentioned during the hearing.

In addition to the budgetary inconsistencies already discussed, the application does not include detailed salary assumptions by position, stating “salary assumptions were determined based upon market research and include incentives for effective performance;” however, no information on annual salaries or estimated annual increases to salaries were included in the budget narrative (Application, Appendix P, p. 210). During the hearing, the applicant stated that they used an average salary across all instructional positions of \$65,670 and provided additional detail, stating that “for elementary [teachers], we have budgeted an average of \$64,233. Secondary is \$66,001. Special Education at \$66,784” (Transcript, p. 103). However, these figures conflict with information provided in the application’s budget and staffing chart for special education teachers, as shown in Table 5, below. The calculated average salary for special education positions in Year 1 appears to be \$70,958, which does not match the information shared at the hearing.

Table 5. Calculated Average Salary, Pennwood Special Education Teachers

	2023-24	2024-25	2025-26	2026-27	2027-28
Budgeted Expenditures	\$1,135,325	\$2,064,284	\$3,473,290	\$5,185,831	\$7,687,825
Positions	16	28	45	65	91
Calculated Average Salary	\$70,958	\$73,724	\$77,184	\$79,782	\$84,482
<i>% Increase in Average Salary</i>		3.9%	4.7%	3.4%	5.9%

While the application includes information on the starting base salary for new teachers and adjustments to salaries based on elements such as years of service (Application, pp. 172-173), the application’s budget narrative states that the provided salary assumptions in the budget include incentives for effective performance (Application, Appendix P, p. 210). During the hearing, it was stated that salaries were estimated with five percent annual increases (Transcript, p. 108). However, the calculated average salaries show increases that are both above and below five percent over the five-year budget projection period. It is not known why the increases do not match the budget assumptions shared during the hearing.

Finally, the applicant fails to account for at least one unique program that will require additional costs in the budget. The application describes a partnership with Drexel University’s Goodwin College, but it does not appear that these costs were included in the budget. During the hearing, Pennwood stated that the partnership would be “. . . between Goodwin and Pearson to assist Pennwood . . . a service that Pearson would provide the school. So all – any – any negotiated costs would actually be between Pearson and Drexel University” (Transcript, p. 117). The applicant clarified that these costs would be included in the curriculum and instructional support line item of the Pearson fee schedule and that there would not be any additional costs for Pennwood beyond those fees for operating the program. As the fees and terms are not yet established with Drexel, according to the provided Memorandum of Understanding contained in Appendix W of the application (p. 792), it is impossible to assess whether the full cost of this program will be incorporated into the fee schedule between Pearson and Pennwood, or within which fee these costs may already be included.

For all of the above stated reasons, the applicant fails to demonstrate necessary financial planning. Accordingly, the application is denied.

- B. The Applicant fails to demonstrate proper planning regarding—or sufficient independence from—its education service provider.

The applicant’s proposed budget shows a grant for the start-up year from Pearson for \$350,000, which is higher than the total projected expenditures for Pennwood. According to the application, the loan will not be repaid, and is instead “a start-up grant that does not constitute repayment. This is an investment in Pennwood and the Pennsylvania students being made by the Education Service Provider” (Application, Appendix P, p. 209).

Despite the start-up loan, there are no expenditures for Pearson included in the projected start-up year. During the hearing, the applicant noted that many of the expenditures that Pennwood would need to make are Pearson-incurred expenditures, such as enrollment and placement services, but clarified that the grant is for expenditures that are not related to Pearson (Transcript, pp. 96-97). The agreement with Pearson notes that Pennwood will provide public information and enrollment services for months before submitting a request for payment noting, “services related to the FY2023-24 school year may begin as early as January 2023, but the invoicing for them will not commence until on or after July 2023 (Application, Appendix N, p. 172).

Lastly, the management agreement proposes that if Pennwood’s revenues are less than expenditures and the school does not have positive net assets sufficient to offset the difference, “Pearson will issue a credit or discount to the School to the extent required to maintain positive net assets at least equal to ten thousand dollars (\$10,000) (or higher if so required by law) as of each June 30 during the Term of this Agreement . . . any credit or discount will not be recoverable by Pearson in subsequent years (Application, Appendix N, pp. 180-181). During the hearing, the applicant noted that if Pearson needed to supplement any negative fund balance, it would not need to be repaid, and the school would not bear any interest. In further discussion, the applicant stated that Pearson would be willing to take this step in the interest of a long-term partnership with the school (Transcript, pp. 151-152). These provisions limit the school’s financial independence from its management company, regardless of the management agreement’s statement that both parties negotiated at arms-length (Application, Appendix N, p. 196).

Furthermore, it is not clear from the application whether Pennwood demonstrates sufficient independence from Pearson regarding operational arrangements. The agreement includes several provisions that call in to question the Board’s real and substantial authority, including:

- Throughout the term, Pennwood shall consult Pearson to determine such matters as composition of school staff and respective job responsibilities, impact on the budget, and school staff job performance related matters such as job descriptions and performance evaluations (Application, Appendix N, p. 165).
- Pearson shall have the right to request in writing that Pennwood replace any member of the school staff if Pearson determines job performance does not meet Pennsylvania Educator Code of Conduct. If Pennwood does not adhere to Pearson’s request, Pennwood must create a school staff Improvement Plan within 30 days, which will be developed in consultation with Pearson (Application, Appendix N, p. 165)
- CEO and assigned School Success Partner, Academic Success Partner, and Solutions Partner (all from Pearson) will participate in performance management meetings, including goal setting for CEO, CEO performance level with improvement suggestions, and formalized performance review sessions (Application, Appendix N, p. 170).

These provisions limit the Board of Trustees’ and CEO’s ability to act independently with regard to management of the school.

Moreover, there are several issues regarding Pennwood’s public information campaign or marketing campaign that raise additional concerns regarding Pennwood’s independence from Pearson, including:

- Pennwood “delegates responsibility for the Public Information Campaign (PIC) to Pearson and shall not undertake any independent PIC or other marketing activities without the express written consent of Pearson and then only under the terms Pearson establishes for any such independent PIC or other marketing activities (Application, Appendix N, p.172).
- “Pearson will not implement Public Information Campaign (PIC) initiatives promoted by the [Pennwood] that Pearson determines may have a negative impact on brand identity and/or reputation in the marketplace, including in connection with the School” (Appendix N, p.171).
- If more than one Pearson-supported school is open in the state, aspects of the Public Information Campaign will be designed to benefit all Schools in the state, including distributing leads to all schools “with the goal of maintaining enrollment parity among all schools” (Appendix N, p. 172).
- If the agreement terminates on June 30, 2028, Pennwood will be solely responsible for marketing and enrollment services, but may not provide services “in a manner that is disparaging of Pearson” (Appendix N, p. 172).

These provisions limit the ability of the school to make decisions regarding how it will market itself or recruit students outside of its relationship with Pearson. As enrollment drives the majority of cyber charter revenues, this gives Pearson significant control over how Pennwood will operate and its overall viability. These provisions extend beyond the termination of the contract, limiting Pennwood’s ability to act independently, and threaten the viability of school operations in the long-term. By allowing the service provider to refuse to implement public relations initiatives, and requiring all public relations be subject to Pearson’s approval, the applicant is limiting the Board of Trustees’ authority regarding outreach and communications, potential recruitment efforts, and strategic planning of its own school.

Finally, the application limits the ability of Pennwood to evaluate the service provider. The agreement states that Pennwood will meet regularly, however it is not clear from the management agreement how performance of Pearson will be evaluated. It does mention that the agreement may be terminated by Pennwood after a performance review is conducted as prescribed in the agreement’s Index of Defined Terms, which states that a performance review cannot be conducted earlier than the end of Year 3 of the initial term. It also states that “. . . the design, performance criteria, and methodology [will] be developed by the School in consultation with Pearson” (Application, Appendix N, p. 201). Thereby, limiting the ability of Pennwood to independently evaluate their service provider.

For the above stated reasons, the Applicant fails to demonstrate proper planning regarding—and sufficient independence from—its education service provider. Accordingly, the application is denied.

Criterion 3: There is no compelling evidence that Pennwood’s proposed programs will enable students to meet academic standards under 22 Pa. Code Ch 4 (relating to academic standards and assessment).

- A. The Applicant includes standards-aligned core curricula but fails to include standards-aligned elective curricula.

Pennwood failed to provide information necessary to evaluate the extent to which programs outlined in the application will enable students to meet standards under 22 Pa. Code Chapter 4, as required by section 1745-A(f)(1)(iii). Specifically, Pennwood failed to align all curriculum to PA Standards set forth in section 1719-A, which states that a cyber charter school application must include “the curriculum to be offered and how it meets the requirements of 22 Pa Code Chapter 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Chapter 4” 24 P.S. § 17-1747-A(1). While Pennwood provided the alignment of core courses, standards-aligned curricula for Arts, Health and Physical Education, and Family and Consumer Sciences are not included in the application.

The applicant fails to include all necessary standard-aligned curricula. Accordingly, the application is denied.

- B. The Applicant outlines practices that are inadequate to meet the needs of vulnerable student populations.

A cyber charter school’s statewide catchment means that applicants must demonstrate readiness to serve a wide range of student populations including historically underserved groups such as English learners and students receiving special education services.

In terms of ELL programming, cyber charter schools are required to “provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction” (22 Pa. Code § 4.26). In this application, the curriculum identified for English Language Development only covers students ages 5-14; leaving no articulated curriculum for students ages 15-21.

The applicant fails to meet the needs of all vulnerable student populations. Accordingly, the application is denied.

- C. Pennwood fails to adequately outline required professional development plans.

Educator effectiveness is the most significant in-school influence on student learning. In its application, Pennwood failed to adequately outline required staffing and professional development plans to analyze state assessment data and ways to improve instructional strategies based on the data. Any meaningful evaluation of an applicant’s capacity to support students in

meeting state standards relies on examination of the Applicant’s plans to identify, support, and retain highly effective educators. Additionally, Pennwood did not share how their professional development plan is based on research or best practices 24 P.S. §§ 17-1719-A(13), 17-1747-A.

The applicant fails to outline all required professional development activities. Accordingly, the application is denied.

Criterion 4: Pennwood’s application is non-compliant with requirements of section 1747-A.

The CSL requires any charter school application to meet application standards under Section 1719-A, while an application for a cyber charter school must meet an additional 16 standards described at Section 1747-A. Pennwood’s application reflects deficiencies from both sections, summarized in Table 6, below.

Table 6. Summary of Missing and Deficient Application Elements

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 17-1747-A	Application Deficiencies
Section 1719-A(4): <i>“The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.”</i>	The method for adding members is covered in the bylaws provided. However, although the application mentions that parents will be added to the board, there are no provisions specifically mentioned as to how this will take place.
Section 1719-A(5): <i>“The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.”</i>	As discussed above, a complete curriculum has not been provided.
Section 1719-A(9): <i>“The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.”</i>	The provisions for auditing the school are provided, but the applicant does not adequately describe who is responsible for accounting and finance functions.
Section 1719-A(13): <i>“The proposed faculty and a professional development plan for the faculty of a charter school.”</i>	As discussed above, the professional development plan for the school is lacking. An understanding of 22 Pa. Code 19, Act 48, Section 2, 24 PS 1205.1 (b) and Title 22 Chapter 49.17 is not demonstrated.
Section 1719-A(14): <i>“Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities.”</i>	Although there is a discussion of extracurricular activities, and a mention of a conversation with Central York School District, there is no agreement or plan that has been entered.
Section 1747-A(1): <i>“The curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.”</i>	As discussed above, the curriculum provided by the applicant does not fully meet the requirements of chapter 4.

The CSL sets forth application requirements that pertain to all charter school applicants (section 1719-A) and additional requirements for aspiring cyber charter schools (section

1747-A). As listed above, Pennwood’s application reflects deficiencies in both sections of the statute. Accordingly, the Application is denied.

Criterion 5: Pennwood fails to substantiate that it will serve as a model for other public schools.

The legislative intent underlying the CSL argues for improved student learning, new and increased learning opportunities for students and educators alike, and accountability for meeting measurable academic standards. As a result, the Department is charged with evaluating a cyber charter school applicant, in part, on the degree to which it may serve as a model for other public schools, which includes other cyber charter schools. The Department turns to the dictionary for a straightforward definition: “An example for imitation or emulation.” Model Definition, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/model> (last visited January 12, 2023). Based on the deficiencies discussed above under criteria 2, 3, and 4, along with the analysis that follows, Pennwood fails to substantiate that it will serve as a model for other public schools.

The 2015 reauthorization of the federal Elementary and Secondary Education Act (ESEA), Every Student Succeeds Act (ESSA), required states to design and implement systems for holding schools accountable for student outcomes, with particular focus on narrowing outcome gaps for historically underserved populations. 20 U.S.C. § 6311. These systems must account for academic achievement, progress in achieving English language proficiency, chronic absenteeism, student progress on career standards benchmarks, and graduation rate measures. As an example, ESSA requires states to designate any public high school that fails to graduate one third or more of their students for Comprehensive Support and Improvement (CSI), the most intensive of three federally prescribed accountability designations.

In the Fall of 2022, Pennsylvania completed the second round of ESSA-required accountability determinations, resulting in Comprehensive Support and Improvement (CSI) designations for 14 of 14 cyber charter schools currently in operation; all cyber charter schools are currently performing in the lowest 5% of all schools in the state. The data provided by Pennwood’s application provide one metric by which the Department can evaluate whether Pennwood plans to serve as a model for other public schools.

Relative to academic proficiency, Pennwood failed to list specific goals and instead posited an *aspirational goal* of “proficiency rates on the Pennsylvania System of School Assessment (PSSA), Pennsylvania Alternative State Assessment (PASA) and the Keystone [...] equal to that of the state average” (Application, p. 14). Pennwood’s stated goal is for 64.3% of students to fail to meet proficiency in Math/Algebra, 45.9% of students to fail to meet proficiency in English Language Arts/Literature, and 45.6% of students to fail to meet proficiency in Science/Biology.

Relative to graduation rate, Pennwood projects a four-year adjusted cohort graduation rate (ACGR), beginning in the 2023-24 school year, of 85% (Application, p. 14). This goal not only plans for 15% of Pennwood students not to graduate on-time, but also is 1.7% less than the statewide ACGR of 86.7%. Pennwood further fails to include a five-year ACGR as required by ESSA, which seems to demonstrate a lack of knowledge of contemporary mandates.

Finally, as discussed in the public comments provided by ML Wernecke during the public hearing, Pearson's performance in managing two other Pennsylvania cyber charter schools provides compelling evidence to suggest that Pennwood will not meet the academic requirements of ESSA. During the time that both cyber charter schools were managed by Pearson, they were designated for Comprehensive Support and Improvement, indicating that they were performing in the bottom 5% of all Pennsylvania schools. The academic and graduation goals contained in the Pennwood application, while aspiring for only the state average at best, remain substantially higher than what has been achieved by either of the other schools managed by Pearson. At least one of the aforementioned Pearson-managed schools has moved away from the Pearson-provided curriculum that delivered subpar academic outcomes. It has already been noted above that the Pearson curriculum provided in Pennwood's application does not fully meet the Chapter 4 requirements. Although Pennwood's application has proposed badging and an additional C-Term not previously seen from Pearson-managed schools, there is insufficient evidence to suggest that either of these initiatives would close the significant gaps witnessed in the other Pearson-managed schools.

For these reasons, in addition to the findings for criteria 2, 3, and 4, Pennwood is not a model for other public schools, including cyber charter schools. Accordingly, the application is denied.

Conclusion

The Department must evaluate a cyber charter school application against five statutorily enumerated criteria. Based on the application received on September 26, 2022, public comments, and testimony during the November 10 Hearing, the Department finds multiple, significant deficiencies. These deficiencies, individually, collectively, and in any combination, are cause to deny the application.

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

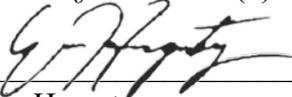
Pennsylvania Department of Education
Office of Chief Counsel
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333

In addition to serving a copy via mail, the appeal must be filed in accordance with the Department’s Procedures for *Electronic Filings and Video/Telephonic Hearings During COVID-19 Emergency* via email to the following address: ra-EDCharterBoard@pa.gov.

In the alternative, the CSL allows an applicant to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). If Pennwood submits a revised application, it shall submit the revised application to the Department at the following address:

Pennsylvania Department of Education
Division of Charter Schools
333 Market Street, 3rd Floor
Harrisburg, PA 17126-0333
RA-CharterSchools@pa.gov

To allow sufficient time for the Department to review the revised application, the revised application must be received by the Department at least 120 days prior to the originally proposed opening date for the cyber charter school. A revised application received after this time period will be returned to the applicant with instructions to submit a new application in accordance with 24 P.S. § 17-1745-A(d).



Eric Hagarty
Acting Secretary of Education

Date mailed: January 13, 2023