



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

December 9, 2021

VIA CERTIFIED MAIL AND E-MAIL

Maketa S. Jolly
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Re: Delaware County Military Academy Cyber Charter School Application Decision

Dear Ms. Jolly:

After reviewing the application for Delaware County Military Academy 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 "Noe Ortega".

Noe Ortega
Secretary of Education

Enclosure

cc: Adam A. Schott, Special Assistant to the Secretary
Sherri L. Smith, Deputy Secretary

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 to establish 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 this submission, 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.

Delaware County Military Academy Cyber Charter School (hereinafter referred to as “DCMA” or “Applicant”) submitted an application to establish a cyber charter school (“Application”) on August 11, 2021.² On September 11, 2021, the Department published notice in the *Pennsylvania Bulletin* for an October 14, 2021 public hearing regarding the Application. Due to scheduling issues, the planned October 14, 2021 hearing was canceled. On October 2, 2021, the Department published another notice for a public hearing, and this hearing was held on November 18, 2021 (hereinafter referred to as “November 18 Hearing”). In accordance with the public notice, the Department received letters both in support of and in opposition to the Application.

Decision

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

¹ All statutory references shall be to the CSL unless otherwise noted.

² On October 11, 2021, and again on November 15, 2021, DCMA attempted to submit documentation to supplement the Application. However, this information was not submitted with the Application, nor was it submitted on or before the statutory deadline of October 1, 2021. *See* 24 P.S. § 17-1745-A. As such, the Department’s review is restricted to material submitted on August 11, 2021.

Based on a review of the written application received on August 11, 2021, questions and responses recorded at the November 18 Hearing, and public comments concerning the Application, the Department denies DCMA's application. While a single deficiency would be grounds for denial, the Department has identified significant deficiencies for every criterion. Discussion of the specific deficiencies follows below.

Criterion 1: Evidence of sustainable support for the cyber charter school plan by teachers, parents or guardians, and students.

As a commonwealth-wide school, cyber charters are well positioned to satisfy the CSL requirement that applicants demonstrate sustainable support from key stakeholders including teachers, parents or guardians, and students. Sustainable support is defined as support sufficient to sustain the charter school as an ongoing entity; importantly, sustainable support is not measured by individual categories of stakeholders by type but rather in the aggregate.³

Although the Application references a 27-member founding group/coalition, no information was provided about these individuals, or the support they might offer the proposed school (Application, p. 7). During the November 18 Hearing, DCMA's representative provided the name of just one possible member of the founding group and brief, non-identifying descriptors for possible board members (Transcript, p. 19). The Application included no letters of support, petitions of support, or student pre-registrations.

As a result of the public notice regarding DCMA's application, the Department received six original letters—three expressing support for DCMA's application and three expressing opposition. No public testimony was presented at the November 18 Hearing.

Finally, the operation of a school entity requires a comprehensive set of policies, along with a governing board to oversee them. The Application provided no information regarding board members, policies, or procedures; how members of the governing board will be selected; or when meetings will be held.⁴

DCMA's application fails to document demonstrated, sustainable support from teachers, parents or guardians, students, or other stakeholders. Additionally, the Application includes no proposed school policies, procedures, or possible board of trustees members. Accordingly, the Application is denied.

³ See *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131 (Pa. Cmwlth. 2001); see also, *Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400 (Pa. Cmwlth. 2003). "Failure to demonstrate strong support in any one category is not necessarily fatal to an application. Nevertheless, a reasonable amount of support in the aggregate must be demonstrated." *In Re MaST-Neshaminy Charter School*, Docket No. CAB 2014-02.

⁴ During the November 18 Hearing, the Applicant's representative stated that board members "were randomly selected using the Educational Consultants and Research Group access to military" (Transcript, p. 18). While it is unclear what the Applicant means by this, the entity referenced (*i.e.*, Educational Consultants and Research Group) is a for-profit company owned by the Applicant's representative.

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

Here, the Department is concerned with evidence that the applicant can design and deliver comprehensive learning experiences to students, and that the applicant’s board of trustees will hold real and substantial authority over the operation of the school, educational decisions, and staff.⁵ DCMA’s application fails to demonstrate such capacity in numerous areas, including most notably with respect to insurability, financial support and planning, and long-term organizational viability. Specific findings follow:

A. The Applicant fails to demonstrate insurability.

A cyber charter school 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 its governing board (24 P.S. § 17-1719-A(17)); this information ensures basic protections for the school’s stakeholders in the event of school closure and safeguards Pennsylvania taxpayers.

The Application fails to include copies of certificates of insurance, nor does it reference any requests for proposals that would indicate such policies are imminent. Further, while the Application’s budget (Application, p. 30) mentions liability insurance, permits, and a license, it does not include information on additional insurance coverage including property insurance or directors and officers’ liability coverage.

B. 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. § 17-1719A(9)). 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 DCMA’s application did include a section entitled “Startup Expenditure (Budget),” the Application fails to include revenue estimates or assumptions in the budget. The Application’s budget does not include any amounts for projected revenues, nor does it include any projected revenues from local sources—the primary source of funding for Pennsylvania’s charter schools. These local revenues are based on per-pupil rates from students’ districts of residence. The

⁵ See *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).

Application fails to address local revenues as a source of school funding, nor does it provide any estimates of per-pupil revenues. (The Applicant's representative also failed to mention enrollment or per-pupil revenues in outlining revenue assumptions at the November 18 Hearing.) Further, the Application fails to include a detailed explanation of projected enrollment including general, special education, and English Learner enrollment, making it impossible to determine the relationship between enrollment and projected revenues, and the reasonableness of any assumptions.

In fact, the Application contains no information on projected revenues beyond outlining the sources of revenue as state grants, federal funding, government discretionary funds, and philanthropy, and does not include financial estimates for the projected revenues from any of these sources (Application, p. 30). During the November 18 Hearing, the Applicant's representative confirmed that the provided revenue streams are estimates; that "those estimated revenue streams are coming from ECRG (Education Consultants and Research Group) . . . a Federal Government contacting [sic] agency"⁶; and that DCMA had not yet been awarded any federal or philanthropic funds (Transcript, pp. 24-26). Without confirmed revenues, it is unclear whether DCMA would be able to cover its start-up costs.

Turning to expenditures, the Applicant fails to budget for several key start-up costs and provides incomplete estimates for costs that will be incurred as the school prepares to open, including salaries and benefits for teachers and other staff, utilities, and technology for students learning in a virtual environment. The Application also did not include any assumptions for how projected expenditures were developed. More specifically:

- The proposed budget does not include a list of proposed staff. The Application states that there will be 45 teachers (Application, p. 11); however, the provided budget does not clarify how many total positions are included. The Application states "the budget for the payment of salaries for the first three months of operations: \$175,000" (Application, p. 30) instead of showing the estimated salary cost for the entire year. During the November 18 Hearing, the Applicant's representative noted that the salaries included were "teacher salaries for principal, for vice principal, an Admissions Director. For an overhead, a CEO or apprentice to oversee and manage the school. Social workers and also school counselors" (Transcript, p. 22). The Applicant failed to provide detail in the budget for estimated salaries for these positions. As a result, it is impossible to determine if these assumptions are reasonable.

⁶ During the November 18 Hearing, DCMA's representative stated that the work required to separate ECRG from DCMA (a non-profit organization) has been completed. ECRG is not mentioned in the Application (Transcript, pp. 37-38).

- The provided budget also does not include any estimates for benefits for staff, including health insurance or retirement as required by the CSL. No quote was included in the Application for any health care coverage or retirement plan, nor did it contain a draft or request for proposal indicating that either plan was forthcoming. During the November 18 Hearing, the Applicant’s representative incorrectly stated that those materials were included (Transcript, p. 22). In any case, it is impossible to confirm if the Applicant has accounted for these costs.
- The Application includes costs for a “large facility that will accommodate the number of classes, playing field, staff offices and parking lots . . . construction of the facility inclusive” (Application, p.30). During the November 18 Hearing, the Applicant’s representative stated that this facility would be purchased (Transcript, pp. 26-27). The Application includes an address which is marked “tentatively” (Application, p. 10); however, DCMA’s application did not include any rent or mortgage estimates to confirm the budgeted amount and also did not include a Letter of Intent for the property located at the address on the Application. Without this information, it is impossible to determine the reasonableness of that budgeted amount, or to ensure that the facility is appropriate to meet the needs of a cyber charter school.
- The Application does not include any costs for facility maintenance, including custodial services, janitorial, or utilities or supplies. During the November 18 Hearing, the Applicant’s representative stated that the facility would be purchased (Transcript, pp. 26-27); if true, DCMA would be responsible for covering utility costs for the facility, and for contracting or providing facility maintenance, including janitorial services. In response to a question, the Applicant’s representative stated that utility and maintenance costs “would be addressed as well with Primepoint”⁷ (Transcript, p. 28). As Primepoint is not mentioned in the Application or noted in the budget, it is impossible to confirm if the Applicant has accounted for these costs.
- As discussed below in further detail, the Applicant’s provided budget does not list any technology costs apart from “equipping the classes and office” at \$90,000 (Application, p. 30). This line item includes computers, printers, furniture, telephones, and electronics. As a virtual school, students would require sufficient technology to participate in academics and the total cost of \$90,000 appears to be insufficient to meet the required computer technology needs for the 125 students projected for Year 1 (Application, p. 11). With no narrative in the Application, it is impossible to know whether DCMA has budgeted any additional amounts for student technology, including software and hardware or whether budgeted expenditures for student technology are sufficient. It is

⁷ During the November 18 Hearing, the Applicant’s representative mentions Primepoint as a vendor that will share responsibility for DCMA’s finance and accounting functions (Transcript, pp. 22-23).

also unclear whether the budget accounts for any consumables and Internet subsidies including hotspots and other necessary equipment. Further, the Application does not include a planned refresh cycle or plans regarding repair and replacement; as such, it is unclear whether the budget accounts for such costs.

- Finally, the Applicant presents conflicting information regarding the total budget, which was not provided in the required PDE-2028 format. The provided budget estimates that DCMA would need approximately \$950,000 in expenditures to “start a small scale but standard charter school in the region” (Application, p. 30), but the provided estimated costs included in the Application total almost \$1.2 million—a difference of \$226,100; see Table 1, below.

Table 1: DCMA Budgeted Expenditures

Expenditures	Cost
Business Incorporating Fees	\$1,000
Liability Insurance, Permits, and License	\$4,500
Facility	\$850,000
Equipment	\$90,000
Website	\$600
Salaries (first three months)	\$175,000
Advertising	\$55,000
Total	\$1,176,100

Based on the lack—and conflicting nature—of information for both revenues and expenditures, it is impossible to determine whether DCMA’s start-up and other near-term budgets balance.

C. The Applicant fails to demonstrate long-term organizational viability.

This lack of planning results in serious questions about DCMA’s prospects for ongoing financial sustainability. The proposed budget does not provide enough detail to determine if the school would be operating with a surplus in its initial year or in subsequent years, which would enable DCMA to build a fund balance—a key component of ongoing financial stability. In fact, the Application does not mention any projected fund balance in any year.

Further, the Applicant fails to plan for budget contingencies in the event actual revenues are less than projected. The lack of clarity on projected annual operating results undermines the Applicant’s long-term organizational viability.

Lastly, adequate planning and support requires an applicant to clearly state who will be responsible for finance and accounting functions and that the individuals performing these functions are qualified and experienced in school finance and accounting. In contrast, DCMA's application makes no mention of internal staffing of the Business Office; any contracted functions; and who will be responsible for functions including payroll, accounting, or budget preparation. While the Application mentions that DCMA's Board of Trustees will include a financial advisor and business professional (Application, p. 28), it fails to describe how involved these individuals will be in the school's financial operations. At the November 18 Hearing, the Applicant's representative stated that the finance and accounting functions will be performed by Primepoint and ADP (Transcript, pp. 22-23). However, these firms are not referenced in the Application, and costs for contracting out financial and accounting functions are not shown in the provided budget.

DCMA fails to provide evidence of insurability; fails to furnish accurate, complete, and internally consistent revenue and expenditure plans; and exhibits long-term financial vulnerability through inadequate contingencies, incomplete planning, and insufficient staff. Accordingly, the Application is denied.

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

The Applicant either fails to address planning for curriculum, instruction, and other programs, or addresses these elements only in the most superficial terms. Specific findings are as follows:

- A. DCMA's application is silent on key aspects of educational technology planning, infrastructure, and delivery.

Section 1747-A requires a cyber charter applicant to detail "the technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student;" "the technical support that will be available to students and parents or guardians;" and "the privacy and security measures to ensure the confidentiality of data gathered online" 24 P.S. § 17-1747-A(a)(6),(9), (10), and (12).

The Application is devoid of this information, making it impossible for the Department to assess the equipment to be provided to students and families; how any such provision might occur, including ongoing technological support; and how the Applicant would acquire and maintain equipment, ensure privacy, and institute security measures for internet use. When asked during the November 18 Hearing to specify what it will use to deliver instruction, DCMA's representative stated: "It would be our Google. We're using Google for our synchronous learning," with no additional detail on content delivery or platform for instruction (Transcript, p. 46). Indeed, the technology deficiencies with respect to planning, privacy, and security are so

systemic that the Application is non-compliant with relevant federal and state statutes, including the Children’s Internet Protection Act and Child Internet Protection Act.

- B. DCMA’s application fails to provide required staffing detail and professional development plans.

Educator effectiveness is the most significant in-school factor on student learning. As such, evaluation of a cyber charter school applicant’s preparedness to support students requires careful attention to plans to identify, support, and retain highly effective educators. 24 P.S. §§ 17-1719-A(13), 17-1747-A.

DCMA’s proposal is woefully deficient in each of these areas. Both the Application narrative and proposed budget are silent on staffing needs and assumptions. Nor does the Application provide any detail on what positions or certifications are needed, or whether any procedures exist for making hiring determinations. In fact, the only detail provided on proposed staffing is a statement in the Application that there will be 45 teachers (Application, p. 11). During the November 18 Hearing, when asked to clarify what salaries are included in school start-up revenues, the Applicant’s representative stated “salaries for principal, for vice principal, an Admissions Director. For an overhead, a CEO or apprentice to oversee and manage the school. Social workers and also school counselors” (Transcript, p. 22).

In addition, DCMA’s application failed to include the required continuing professional education (22 Pa. Code § 49.17) and required induction plan for new staff members (22 Pa. Code § 49.16). At the November 18 Hearing, the Applicant’s representative made cursory references to possible themes for professional development (e.g., “trauma-informed practices”) without evincing any substantive understanding of underlying Chapter 49 requirements (Transcript, pp. 52-53).

- C. DCMA does not provide appropriate, sufficient practices to support 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.

For English Learners, 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). DCMA’s application fails to provide any evidence of the required processes or procedures necessary to support this student group. During the November 18 Hearing, Department staff posed questions related to these deficiencies, but the Applicant’s representative was unable to demonstrate an adequate understanding of English Learner programs and support (Transcript, p. 48).

Planning for special education services is equally deficient. The Applicant fails to address the process for implementing the requirements of Part B of the Individuals with Disabilities Education Act including establishing policies and practices related to Child Find, the development and implementation of Individualized Education Plans (IEPs), and the provision of a Free Appropriate Public Education (FAPE) in the least restrictive environment. School entities are required to provide access to a full a continuum of services under 34 C.F.R. Part 300. During the November 18 Hearing, when questioned on providing a least restrictive environment, the Applicant’s representative indicated “we want to—it’s a total push-in model. We don’t have separate special education classes. All students will be in synchronous classes” (Transcript, p. 49). These statements raise questions as to whether DCMA can offer any semblance of a continuum of services.

Further, the Applicant fails to address criteria set forth in section 1747-A, specifically “the provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs.” Special education programs, placements, supports, and services are determined by the IEP team; these decisions are based upon the student’s needs, not availability of the LEA’s programming. When questioned on how IEPs will be developed within the school, the Applicant’s representative stated “IEPs are typically developed annually and as needed. And we would follow the IED laws, IEDA [*sic*] Laws” (Transcript, p. 50). These responses indicate that the Applicant is unfamiliar with fundamental, longstanding requirements for providing special education services according to Federal and State law.

- D. DCMA fails to provide documentation of curriculum, assessments, and planned instructional practices for any subject area.

In addition to requirements set forth in section 1719-A, a cyber charter school application must include “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” 24 P.S. § 17-1747-A(1).

In its application, as well as during the November 18 Hearing, DCMA describes a school focusing on Science Technology Engineering and Mathematics (“STEM”) principles within a military academy (Application, pp. 2-3; Testimony, pp. 10-11). However, the Applicant fails to provide a curriculum or a list of courses to meet the requirements of Pennsylvania’s academic standards, nor any scope and sequence for any course or subject area. Although DCMA suggests that its program was “modeled after the United States Army, West Point Academy, and other DODEA charter schools,” the Application provides no curriculum, supporting documents, or other source to corroborate this connection (Transcript, p. 9).

Similarly, section 1719-A(5) requires an applicant to include methods of assessing whether students are meeting educational goals—yet DCMA fails to provide an assessment plan or any evidence of a process or system by which students’ academic progress will be regularly assessed

as measured on the state’s Future Ready PA Index and as required by Chapter 4 and section 1719-A.

Section 1747-A(4) requires an applicant to provide the manner in which teachers will deliver instruction. Here, the Application is unclear on the mix of synchronous and asynchronous instruction that will accompany DCMA’s curriculum and fails to explain how meaningful student engagement will be fostered during asynchronous periods. During the November 18 Hearing, the Applicant’s representative indicated that the method of instructional delivery “will be synchronous” (Transcript, p. 40) and then contradicts this statement by saying “asynchronous instruction is supreme, it rules, and so the asynchronous instruction is our programs that we have structured within it for students at risk” (Transcript, p. 45).

The absence of critical details on curriculum, assessment, and instructional methods, together with plainly inconsistent information, makes it impossible to evaluate the educational programming that DCMA intends to provide.

- E. DCMA’s application fails to provide the proposed school’s admission policy and criteria for evaluating the admission of students.

Section 1719-A(6) requires that an applicant seeking to operate a charter school submit the policy and criteria for evaluating the admission of students. The Application fails to include any such information. DCMA’s representative stated during the November 18 Hearing that there would be a three-tiered system of enrollment, with preferential enrollment for students who were seeking to go into a military program, a second tier for those potential students from a military background, and the third tier for the general public (Transcript, p. 30).⁸ Due to the lack of detail concerning DCMA’s admissions, the Department is prevented from evaluating whether DCMA’s policy is compliant with the CSL.

- F. DCMA’s application fails to provide documentation of required instructional time.

Finally, per requirements set forth in section 1719-A(12), a cyber charter school application must include a proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502. Additionally, section 1715-A (9) requires charter schools to provide a minimum of 180 days or 990 hours of instruction for secondary students. Although the Applicant’s representative indicated that a school calendar was provided in the Application (Transcript, p. 31), DCMA failed to provide any reference to a school academic calendar in the Application.

DCMA’s application neglects important, required details on educational technology, infrastructure, and delivery; fails to provide even basic plans around staffing and professional development; disregards state and federal requirements in outlining policies for vulnerable student groups; fails to provide information regarding curriculum and planned instruction; fails to include admissions and enrollment procedures; and fails to

⁸ Section 1723-A sets forth general enrollment procedures for charter schools, including permissible enrollment preferences. The statement at the November 18 Hearing appears to violate the permissible preferences.

provide documentation of required instructional time. Accordingly, the Application is denied.

Criterion 4: DCMA’s application is noncompliant with the 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. DCMA’s application reflects significant deficiencies from both sections, summarized in Table 2, below.

Table 2. Summary of Missing and Deficient Application Elements

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
<p>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></p>	<p>A proposed governance structure with descriptions and methods for the appointment of members was not included in the Application. There is a discussion of the Board of Trustees, but no method for the appointment or election. At the November 18 Hearing, the Applicant’s representative stated that there were still two seats open but did not provide further information on the identity or experience of these individuals, with the exception of Ms. Sara Buchanan. (Transcript, p. 19).</p>
<p>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></p>	<p>The curriculum is not included within the Application, nor is there discussion of assessments or goals. The Applicant’s representative could not recall whether a proposed curriculum was submitted (Transcript, p. 40). Additionally, DCMA’s representative stated that assessments would be given quarterly, but did not have a viable plan for administering PSSA or Keystone examination. (Transcript, pp. 41-44).</p>
<p>Section 1719-A(6): <i>“The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.”</i></p>	<p>Neither the admissions policy nor criteria is included in the Application.</p>

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
Section 1719-A(7): <i>“Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318.”</i>	There were no procedures or policies regarding suspension or expulsion of students included in the Application.
Section 1719-A(8): <i>“Information on the manner in which community groups will be involved in the charter school planning process.”</i>	There were no mentions of what specific community groups might be involved or how they would be involved contained in the Application.
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>	As discussed above, there was no financial plan included in the Application. There were no plans shared for how audits would be conducted.
Section 1719-A(10): <i>“Procedures which shall be established to review complaints of parents regarding the operation of the charter school.”</i>	Procedures to review parent complaints were not mentioned in the Application.
Section 1719-A(12): <i>“Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502.”</i>	There was no school calendar contained within the Application. Additionally, the length of day and/or length of school year was not provided in the Application. The Applicant’s representative stated that the school day would run from 8:00-3:30 every day (Transcript, p. 32), but did not provide any further information on how the 180-day/990 hour minimums would be met.
Section 1719-A(13): <i>“The proposed faculty and a professional development plan for the faculty of a charter school.”</i>	There was no proposed faculty contained within the Application. The Application was also lacking a professional development and teacher induction plan. The Applicant’s representative specifically mentioned using PaTTAN and Lakeside for professional development (Transcript, p. 52); however, this was not addressed in the Application.

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
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 within the school district.”</i>	No such agreements were contained within the Application. There was no discussion as to any extracurricular activities.
Section 1719-A(15): <i>“A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.”</i>	There was no mention of any names of individuals who would be involved with the school, other than the Applicant’s representative. Additionally, there were no procedures or policies contained within the Application regarding criminal history reporting for any employee.
Section 1719-A(16): <i>“An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.”</i>	There were no procedures, policies, or statements regarding child injury or abuse clearances for the Applicant or any potential employees within the Application.
Section 1719-A(17): <i>“How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school.”</i>	There was no discussion of the amount or provision of liability insurance contained within the Application.
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, there was no curriculum provided with the Application. The Application lacked course descriptions, scope and sequence, course objectives, methods of assessment, or alignments to Pennsylvania standards.
Section 1747-A(2): <i>“The number of courses required for elementary and secondary students.”</i>	The Application did not provide any course or credit requirements for students.

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
<p>Section 1747-A(3): <i>“An explanation of the amount of on-line time required for elementary and secondary students.”</i></p>	<p>The amount of time required for each student was not discussed in the Application. Additionally, within the Application there were no procedures or policies for student attendance. At the November 18 Hearing, the Applicant’s representative stated that the school day would be from 8:00 to 3:30 (Transcript, p. 32), but could not reconcile how this would be adapted for students who would participate in lessons asynchronously.</p>
<p>Section 1747-A(4): <i>“The manner in which teachers will deliver instruction, assess academic progress and communicate with students to provide assistance.”</i></p>	<p>The method and manner of instruction and assessment was not contained within the Application.</p>
<p>Section 1747-A(5): <i>“A specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.”</i></p>	<p>There was no discussion of any cooperative learning opportunities, field trips, study sessions, or parent meetings contained within the Application.</p>
<p>Section 1747-A(6): <i>“The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.”</i></p>	<p>The type of technology to be utilized by the student was not mentioned within the Application. The Applicant’s representative stated during the hearing that all students would receive Chromebooks (Transcript, p. 54). However, as discussed above, the cost for hardware and software were absent from the Application.</p>
<p>Section 1747-A(7): <i>“A description of how the cyber charter school will define and monitor a student's school day, including the delineation of on-line and off-line time.”</i></p>	<p>The amount of time required for each student was not discussed in the Application. The Applicant’s representative stated during the hearing that the school day would begin at 8:00 and end at 3:30 (Transcript, p. 32) but did not make allowances for asynchronous attendance. Additionally, within the Application there were no procedures or policies for student attendance. At the November 18 Hearing, the Applicant’s representative described the truancy policy as “rigorous” (Transcript, p. 34), but provided no details.</p>

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
<p>Section 1747-A(8): <i>“A description of commercially prepared standardized achievement tests that will be used by the cyber charter school in addition to the Pennsylvania System of School Assessment test, including the grade levels that will be tested and how the data collected from the tests will be used to improve instruction.”</i></p>	<p>The Application did not provide any information regarding the school's plans to utilize standardized testing, to include PSSAs or Keystones. The Applicant’s representative described using MAP testing and benchmark testing quarterly (Transcript, p. 41), but did not have a plan or schedule for PSSA or Keystone testing. Additionally, the Application did not mention how any information from these assessments could be utilized to improve instruction.</p>
<p>Section 1747-A(9): <i>“The technical support that will be available to students and parents or guardians.”</i></p>	<p>The Application did not provide any information regarding technical support for students or parents/guardians.</p>
<p>Section 1747-A(10): <i>“The privacy and security measures to ensure the confidentiality of data gathered online.”</i></p>	<p>This information was not contained within the Application.</p>
<p>Section 1747-A(12): <i>“The methods to be used to insure the authenticity of student work and adequate proctoring of examinations.”</i></p>	<p>This information was not contained within the Application. During the hearing, the Applicant’s representative discussed using Grammarly to detect plagiarism (Transcript, p. 65), but failed to mention how this would be budgeted. Additionally, proctoring of examinations was discussed (Transcript, p. 43-44), but the plan discussed is not feasible for PSSAs or Keystones in that it involves allowing the proctors to monitor the students’ screens.</p>
<p>Section 1747-A(13): <i>“The provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs.”</i></p>	<p>As discussed above, DCMA’s planning for students with disabilities is exceedingly deficient. There was no discussion in the Application for the education of students with disabilities, including the writing of IEPs.</p>

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 1747-A	Application Deficiencies
Section 1747-A(14): <i>“Policies regarding truancy, absences and withdrawal of students, including the manner in which the cyber charter school will monitor attendance consistent with the provisions of section 1715-A(9).”</i>	No policies or procedures related to truancy, absences, or the monitoring of attendance were contained within the Application.
Section 1747-A(15): <i>“The types and frequency of communication between the cyber charter school and the student and the manner in which the cyber charter school will communicate with parents and guardians.”</i>	There was nothing in the Application regarding the type and frequency of communication between the school, student, and parents/guardians.

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, DCMA’s application reflects numerous deficiencies in both sections of the statute, evidencing failure to plan and failure to comply with foundational elements of the CSL. Accordingly, the Application is denied.

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

The CSL is premised on increasing learning opportunities for Pennsylvania students and ensuring public accountability around a charter school’s efforts to help students meet rigorous academic standards. With these considerations in mind, the Department must evaluate a cyber charter school applicant, in part, on whether it might serve as a model for other public schools statewide including Pennsylvania’s existing 14 cyber charter schools which collectively enroll more than 60,000 students.

In the absence of Charter Appeal Board (CAB) or court decisions concerning what makes for a “model,” the Department looks 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 December 9, 2021).⁹

⁹ While there are both CAB and Commonwealth Court cases finding that similarities between a proposed charter school and other public schools do not prove fatal, uniqueness is not the sole defining aspect of a model. When an application proposes such poor outcomes, or in this case fails to include any measurable goals, it would be an absurd result to find that it satisfies the language of the CSL relative to serving as a model for other schools. *See e.g., Montour Sch. Dist. v. Propel Charter Sch.*, 889 A.2d 682 (Pa. Cmwlth. 2006); *Re: Infinity Charter School Appeal from the Denial of Charter by Dauphin School District*, Docket No. CAB 2002-4; *Shenango Valley Charter School*, Docket No. CAB 1999-1.

Based on the deficiencies described above in relation to criteria 1, 2, 3, and 4, along with the discussion that follows, DCMA does not merit imitation or emulation. In fact, the Applicant fails to provide even the most basic information that would promote evaluation along these lines.

The most appropriate standard for determining whether one public school might serve as a model for another begins with the 2015 reauthorization of the federal Elementary and Secondary Education Act (ESEA), alternatively titled the Every Student Succeeds Act (ESSA). The ESSA required states to design and implement systems for holding all public schools—traditional and charter, brick and mortar and virtual—accountable for an array of student outcomes, in particular narrowing of outcome gaps for historically underserved populations (20 U.S.C. § 6311). These accountability systems must incorporate academic achievement, graduation rate, and non-academic measures such as regular attendance. Under ESSA, state education agencies must regularly assess school and student group performance against these measures to designate schools for support and potentially more intensive interventions.

Such designations currently impact all 14 of Pennsylvania’s cyber charter schools, with ten of these schools carrying Comprehensive Support and Improvement (CSI) designations, indicating performance among the lowest five percent of all public schools statewide that receive Title I-Part A funds.¹⁰ Despite the significant overlap between the state’s existing cyber charter sector and federal accountability designations, the Applicant exhibits no understanding of ESSA requirements and provides no proposed achievement or other goals in its Application.

To begin, DCMA’s eight-page submission includes no measurable academic goals and objectives to promote student learning, nor any measurable non-academic goals and objectives to promote student performance as called for in the Department’s standard cyber charter school application. DCMA’s “Business and Marketing Plan” is appended to this standard application, and fields completed in the standard application indicate that this attachment houses “proposed school metrics” (Application, p. 8).

While the cover page of the Business and Marketing Plan includes a “vision” to “become the number one choice for both parents and students in the Tri-State area” along with a “business goal” to rank among the “top 10 charter schools in the United States of America within the first 20 years of operation,” the Application is wholly devoid of any specific indicators or system of measurement to support these sweeping aspirations.

More specifically, the Applicant fails to cite any assessment system (benchmark, formative, or summative; state-required or locally selected), fails to discuss high school graduation rate goals; and fails to articulate any postsecondary success goals. The Applicant includes a roughly half-page “SWOT Analysis” that is essentially indecipherable: this discussion appears to be premised

¹⁰ See Pennsylvania Department of Education (2019) for accountability designation lists, available at: <https://www.education.pa.gov/K-12/ESSA/Pages/Accountability.aspx> (last visited December 9, 2021).

on the operations of a “Saint Paul® Community Charter School” that does not exist; includes references to a regional focus (whether this is the Twin Cities or not is unclear—in any case, Pennsylvania cyber charter schools are required to serve a statewide catchment); and touts its ability to “attract loads of students from the first day we open our doors” (Application, p. 29).¹¹

During the November 18 Hearing, the Department asked the Applicant’s representative for detail on how it will meet ESSA requirements, including setting and measuring progress against goals. Again, the Applicant failed to make any reference to any of the six established measures used to implement Federal accountability requirements,¹² Pennsylvania’s ESSA-required long-term goals, the Future Ready PA Index, or any other generally accepted system of school measurement (Transcript, p. 41). On the important topic of test security, the Applicant’s representative implies that Federally required assessments will be delivered remotely, contrary to Pennsylvania’s Federally approved, peer reviewed assessment administration protocols (Transcript, pp. 43-44).

DCMA’s Application reflects no knowledge of federally required measures for school improvement; fails to set any specific academic or other outcomes or any overarching system for measuring them; and asserts that Federally required assessments will be administered by the school in a manner that conflicts with existing Federal peer review standards. These conclusions—together with findings from criteria 1, 2, 3, and 4—demonstrate that DCMA is not a model for other public schools, including cyber charter schools. Accordingly, the Application is denied.

¹¹ During the November 18, 2021, Hearing, the Department asked the Applicant’s representative to explain references, throughout the Application, to St. Paul Community Charter School. The Applicant’s representative was unable to do so (Transcript, pp. 38-39).

¹² Academic achievement, Academic achievement in public high schools, Academic progress in public elementary schools and secondary schools that are not high schools, Graduation rate, Progress in achieving English language proficiency, School quality or student success.

Conclusion

The Department must evaluate a cyber charter school application against five statutorily enumerated criteria. Based on the application submitted on August 11, 2021 and testimony during the November 18 Hearing, the Department finds multiple, significant deficiencies for each count. These deficiencies, individually, collectively, and in any combination, are cause to deny the application.

The Delaware County Military Academy 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 DCMA 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 DCMA 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).



Noe Ortega, Ph.D.
Secretary of Education

Date mailed: December 9, 2021