



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

SECRETARY OF EDUCATION

717-767-5620

January 28, 2013

Dr. William Dickinson
Phase 4 America Cyber Charter School
121 Towne Square Way
Pittsburgh, PA 15227

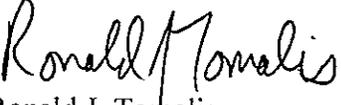
SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Dr. Dickinson:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Phase 4 America Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny your application. Please review the pages that follow for more information.

If you have any questions, please contact Michael Wilson at (717) 214-5708 or mrwilson@pa.gov.

Sincerely,


Ronald J. Torhalsis

Enclosure

Pennsylvania Department of Education's Decision

The Phase 4 America Cyber Charter School 2012 Cyber Charter School Application

Background

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

The Phase 4 America Cyber Charter School (Phase 4) submitted an application to operate as a cyber charter school. The Department provided 30 days notice of a public hearing held on November 26, 2012.

Decision

Based on a thorough review of the written application as well as questions and responses recorded at the November 26, 2012 public hearing, the Department denies Phase 4's application. Deficiencies were found in the following areas:

- Application Requirements
- Sustainable Support
- Use of Physical School Facilities
- Governance
- Finance
- Curriculum
- English as a Second Language
- Professional Development
- Teacher Induction
- Special Education
- Technology
- Comprehensive Planning

The applicant did not comply with applicable requirements.

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

A cyber charter school applicant is required to submit a description of how the cyber charter school will provide adequate liability and other appropriate insurance. Phase 4 states in its application that it will provide certain types of insurance at specified amounts and that it will

obtain the insurance from a particular insurance company. However, Phase 4 failed to submit any evidence of insurability.

(b) The applicant cannot offer a dual enrollment program.

A charter school is required to receive and disburse funds for charter school purposes only. Phase 4's application discussed a dual enrollment option for its students whereby its students could enroll in postsecondary courses and receive postsecondary credit upon completion of the courses. Using cyber charter school funds to offer a dual enrollment program would not be using cyber charter school funds for cyber charter school purposes. Therefore, Phase 4 cannot use cyber charter school funds or its equipment to provide dual enrollment to its students.

(c) The applicant failed to provide information concerning the total days or hours of instruction.

A cyber charter school is required to provide a minimum of 180 days and 900 hours of instruction per year at the elementary level and 990 hours of instruction per year at the secondary level. Phase 4 is seeking to establish a cyber charter school for students in grades 9-12. Phase 4's application stated that the cyber charter school would offer 900 hours of instruction per year. Therefore, Phase 4 has not demonstrated that it will meet the minimum instructional time requirements for its students.

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

A cyber charter school must provide the addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements in its application. Phase 4 provided the addresses of several school locations where it intends to locate its operations and learning centers in its application. However, Phase 4 did not provide documentation concerning the ownership of the properties and any lease arrangements associated with the properties to permit the Department to confirm compliance with applicable requirements.

(e) The applicant failed to demonstrate the necessary support and planning to provide students with a comprehensive learning experience.

A cyber charter applicant must demonstrate a capability, in terms of support and planning, to provide a comprehensive learning experience to students under the charter. Multiple times throughout the hearing, Phase 4 representatives discussed an interest in partnering with school districts and intermediate units to meet the needs of its students. However, Phase 4 was not able to provide a detailed explanation of what these partnerships would entail and how these partnerships would assist Phase 4 in meeting the needs of its students.

(f) An unknown entity was referenced throughout the application.

Throughout the section titled "Board Policies and Procedures," the application refers to "Imagine Schools, Inc." It states that "the relationship between the Board and Imagine Schools, Inc., the

charter school operator, will establish and evaluate performance as per the conditions of the operating agreement.” It also states that “Board members will select a highly qualified principal, with input from Imagine Schools, Inc., to operate the school.” It also states that “the Board members will approve and maintain an operating agreement with the educational service provider, Imagine Schools, Inc.” Finally, it states that “the Board members will supervise and evaluate, Imagine Schools, Inc., and the principal in performance of their respective duties and obligations.” Phase 4 representatives testified that the use of “Imagine Schools, Inc.” throughout the application is an error. Therefore, Phase 4 failed to make the necessary corrections to its application.

(g) The applicant failed to submit required application materials.

The CSL authorizes the Department to develop forms necessary to carry out the provisions of the CSL applicable to cyber charter schools. On an annual basis, the Department posts a Cyber Charter School Application and a Charter School Application Fact Sheet on its publicly accessible website. Phase 4 failed to submit the Charter School Application Fact Sheet with its application.

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

One of the criteria to be used by the Department to evaluate a cyber charter school application is the “demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students.” 24 P.S. § 17-1745(f)(1)(i). “[S]ustainable support means support sufficient to sustain and maintain the proposed charter school as an on-going entity.” *In re: Ronald H. Brown Charter School*, CAB No. 1999-1, p. 18.

Phase 4’s application discusses the reputation that the Phase 4 Learning Center, Inc. has established in its 11 years of working with at-risk students of Pennsylvania. The reputation that the Phase 4 Learning Center, Inc. has formed over the years does not necessarily demonstrate sustainable support for the cyber charter school plan.

Phase 4’s application refers to a letter that Phase 4 America, Inc. has sent to over 125 school districts in Western Pennsylvania that explains Phase 4 and requests school district support. However, Phase 4 did not submit letters or petitions that indicated current or ongoing support for the cyber charter school.

Phase 4 representatives testified that they had received verbal requests for a cyber charter school from parents and children who attend the Phase 4 Learning Center, Inc. However, a minimum level of support from a discrete group is not a sufficient indication of support. *Montour School District v. Propel Charter School-Montour*, 889 A.2d 682 (Pa. Cmwlth. 2006). Therefore, verbal requests from only the parents and children who attend Phase 4 Learning Center, Inc. is not sufficient support to sustain and maintain the proposed cyber charter school on an on-going basis.

The applicant did not provide information to establish proper use of physical school facilities.

Schools that operate under a charter are divided into three general types – charter schools, regional charter schools, and cyber charter schools. The first two, charter schools and regional charter schools, are authorized to operate through charters granted by a local board of school directors. *See* 24 P.S. §§ 17-1717-A(c) and 17-1718-A(b) and (c). These schools are commonly referred to as “brick-and-mortar” charter schools and focus on teacher-centered instruction, including teacher-led discussion and teacher knowledge imparted to students, through face-to-face interaction at the schools’ physical facilities. By contrast, cyber charter schools are authorized by the Department, *see* 24 P.S. § 17-1741-A, and offer a structured education program in which content and instruction are delivered over the Internet without a school-established requirement that the student attend a supervised physical facility designated by the school, except on a very limited basis, such as for standardized tests.

By establishing different provisions for the authorization of the individual types of charters by separate agencies, the General Assembly acknowledged that significant differences exist between these types of schools and signaled its intent that cyber charter schools are materially different from charter schools and regional charter schools.

As defined by the CSL, a cyber charter school is “an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means.” *See* 24 P.S. § 17-1703-A. The CSL’s definition of a cyber charter school is not the exclusive legislative guidance for the requirements applicable to cyber charter schools, however. *See* 1 Pa.C.S. § 1921(a) (statute shall be construed to give effect to all its provisions). Additional provisions of the CSL, in addition to the fact that subarticle (c) specifically addressed cyber charter schools separately from other schools that operate under a charter, lead to the conclusion that a cyber charter school must exist exclusively, or at least in all material respects, in a virtual environment, as further explained below, and use physical facilities only as a supplement to virtual instruction.

For example, 24 P.S. § 17-1723-A(c) permits charter schools and regional charter schools to “enroll nonresident students on a space-available basis.” This and other similar features are irrelevant to cyber charter schools, that provide their curriculum in a virtual environment. Likewise, 24 P.S. § 17-1726-A, which relates to transportation to charter schools and regional charter schools, does not apply to cyber charter schools. *See* 24 P.S. § 17-1749-A(a)(1). The General Assembly did not find it necessary to ensure enrollment preference for resident students or provide provisions for transportation of cyber charter school students, because it intended that a cyber charter school deliver instruction in a virtual environment, and not at a school’s physical facility that would be located within the boundaries of a particular school district or require that students be transported to the physical facility for attendance.

Specific cyber charter school application requirements — which supplement those that are otherwise applicable to all applicants that seek to operate schools under a charter — further evidence that the General Assembly recognized the differences between brick-and-mortar charter schools and cyber charters schools. For example, in addition to the requirement in 24 P.S. § 17-

1719-A(12) that a charter application include information on the length of the school day, a cyber charter application must include an “explanation of the amount of on-line time required for elementary and secondary students” and a “description of how the cyber charter school will define and monitor a student’s school day, including the delineation of on-line and off-line time.” 24 P.S. § 17-1747-A(3) and (7). The collection of this additional information in the application is necessary because cyber charter school students “attend” school in a virtual (on-line) environment and not at a physical school facility. Also, in addition to providing a description and address of the physical facility in which the school will be located, 24 P.S. § 17-1719-A(11), a cyber charter school application must include the “addresses of all facilities and offices of the cyber charter school. . . .” 24 P.S. § 17-1747-A(16). Here, the General Assembly recognized that a cyber charter school would operate from multiple locations for any in-person interaction with students to supplement virtual instruction, if at all, and required that applications provide a description of “all” facilities and offices as compared to “the physical facility.”

As an administrative agency, the Department must act within the scope of the authority delegated to it by the General Assembly. *Mack v. Civil Service Commission*, 817 A.2d 571, 574 (Pa. Cmwlth. 2003). Both local boards of school directors and the Department are independently granted authority to review and act upon applications for the establishment of public schools that operate under a charter, and to oversee and regulate the schools. Acting within the authority granted to the Department by the General Assembly also requires that the Department not invade upon the separate authority granted to local boards of school directors by the General Assembly. Consequently, in considering applications for the establishment of cyber charter schools and in the general oversight and regulation of cyber charter schools, it is essential that the Department recognize the differences between these types of schools. As a practical matter, this means the Department is not authorized to permit the establishment or operation of a cyber charter school that provides face-to-face instruction in a physical facility and which should instead be authorized by local boards of school directors. The Department’s public recognition of these distinctions assists charter applicants with identifying the appropriate charter authorizer for submission of an application for the establishment of a charter school, regional charter school or cyber charter school, and in determining the proper procedures for submission of an application to the authorizer.

Because of the limitations of the CSL described above, cyber charter schools must be able to function and provide all curriculum and instruction to all of its students without the need for students to attend any physical facility designated by the cyber charter school. A cyber charter school may only use a physical facility as an administrative office or as a resource center for the purpose of providing no more than supplemental services (e.g., tutoring, counseling, extra-curricular activities, standardized testing) to enrolled students. Any use of physical facilities by a cyber charter school for these supplemental services shall provide equitable access to such services for all students enrolled in the school. To ensure equitable access, a cyber charter school must have materially the same supplemental services available to all enrolled students wherever they live in the Commonwealth. If the physical facilities designated by the cyber charter school are not accessible to a student, the cyber charter school must be prepared to demonstrate that it can provide for suitable electronic communication with the student or provide for a staff member or contracted consultant to travel to a location convenient to the student to provide such services. A cyber charter school may only require students to attend a physical

facility designated by the cyber charter school: to take standardized tests, including PSSA tests; when the cyber charter school's written policies require supervised completion of course work or tests due to concerns relating to completion of earlier assignments or tests by a student (e.g., reasonable suspicion of others completing the student's work or tests); and, for individual or planned student/parent/guardian meetings with teachers or other school staff if there is reasonable necessity for such meetings to be conducted at a physical facility and such meetings cannot be conducted through electronic means. Finally, to ensure that the operation of a cyber charter school will not have a significant impact on one or a defined group of school districts, which would legally require authorization of the school as a charter school or regional charter school, the cyber charter applicant or operating cyber charter school must demonstrate the ability to enroll students from across the state and provide all services to those students in a materially consistent way, regardless of where they reside.

Phase 4's application describes the proposed cyber charter school as having "drop-in" locations. At the public hearing, Phase 4 representatives stated that not every child would need to attend a physical school facility, which it referred to as drop-in locations, but that drop-in locations would be essential for Phase 4's model to be completely successful. In its Needs Assessment, Phase 4's application refers to a "blended learning" model, which it defines as the teaching practice that combines teaching models from both face-to-face and online learning and instruction. It also references providing students with online tools to supplement classroom instruction. At the public hearing, Phase 4 representatives testified that it is important to provide staff and students the opportunity of working one-on-one or in small groups, which the online program would not provide. Phase 4's application states that it will initially offer drop-in centers in Western Pennsylvania, and open additional sites if and when the need arises. Phase 4 has a localized marketing plan that targets the Western Pennsylvania population and contacts obtained from Phase 4 Learning Center's site directors.

Based on information provided in Phase 4's application and at the public hearing, Phase 4 has failed to show that its proposed use of physical facilities would be in compliance with the proper use of physical facilities by a cyber charter school as identified above.

The applicant did not submit sufficient evidence of properly established procedures for governance of the school.

(a) Articles of Incorporation.

The CSL authorizes the Department to develop forms necessary to carry out the provisions of the CSL applicable to cyber charter schools. On an annual basis, the Department posts a Cyber Charter School Application document on its publically accessible website. The Cyber Charter School Application requires that an applicant provide copies of the school's Articles of Incorporation (Articles), bylaws and contracts. In addition, pursuant to the CSL, a cyber charter school must be organized as an independent, public, nonprofit corporation. Phase 4 provided Articles for Phase 4 America, Inc. in its application. Furthermore, Phase 4 representatives testified that the proposed cyber charter school had no intention of filing Articles with the Pennsylvania Department of State because it would be organized as a subsidiary of, or function under the control of, Phase 4 America, Inc. Because the CSL only permits the granting of a

charter to an independent, public, nonprofit corporation, the Department must have a copy of the Articles of the cyber charter school that have been fully executed and filed with the Pennsylvania Department of State so that the Department can verify that Phase 4 is an independent, public, nonprofit corporation.

In addition, Phase 4's application states that it will function as a 501(c)(3) organization. However, the CSL states that a charter cannot be granted to a sectarian school, institution, or other entity. Therefore, Phase 4's Articles cannot refer to "religious" as one of the purposes for which the entity is organized, when Phase 4 executes and files Articles with the Pennsylvania Department of State.

(b) Bylaws.

Phase 4's Bylaws enable public officials and employees to be in a position to use the authority of his or her public office and employment in a manner that could result in private pecuniary gain to himself or herself. The Bylaws state that the Board cannot receive compensation for reason of their office, but the Board members who are employees may receive compensation for reason of their employment. Also, the Bylaws state that the Principal shall be a voting member of the Board of Trustees. The Bylaws further state that the Principal shall answer questions of the Board members. Taken together, these provisions allow the Principal, as a Board member, to vote on decisions regarding his or her compensation.

In addition, Phase 4's Bylaws state that Phase 4 America, Inc. can have up to 40 percent of Board membership. Phase 4's application evidences an intent on behalf of the proposed cyber charter school to enter into a management agreement with Phase 4 America, Inc. Therefore, the management company would be carrying out the responsibilities of the proposed cyber charter school's Board of Trustees and having 40 percent of the voting power in decisions related to the school. This arrangement would prevent the proposed cyber charter school from being an independent entity and would prevent the proposed cyber charter school's Board of Trustees from having substantial authority and responsibility for its educational decisions. *West Chester Area School v. Collegium Charter School*, 760 A.2d 452 (Pa. Cmwlth. 2000), *aff'd* 812 A.2d 1172 (Pa. 2002). Also, this provision creates a clear conflict of interest in decision making as it relates to the contractual arrangement between the management company and the proposed cyber charter school.

Phase 4 failed to identify any action that would be taken to ensure the avoidance of conflicts of interest in decision making concerning the school. Phase 4 failed to provide any information concerning how these provisions are compatible with the proper operations of a public school, including the school's capability to provide support and planning for a comprehensive learning environment and the duties of the Trustees to the corporation.

Finally, Phase 4's Bylaws state that the Board of Trustees shall consist of not more than nine members. However, in its application, it states that the Board of Trustees will be composed of no less than nine and no more than 15 members. In another part of its application, it states that the Board of Trustees shall be comprised of five to nine members. Phase 4 failed to correct these inconsistencies within its application.

(c) Management Agreement.

The Commonwealth Court has stated that a charter school applicant must include in its application a finalized management agreement so that the charter authorizer can determine whether the Board of Trustees of the charter school will have ultimate control of the charter school. *School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Cmwlth. 2001). Although Phase 4's application discusses entrusting the day-to-day management of the school to Phase 4 America, Inc., the application did not include a management agreement. Therefore, if Phase 4's cyber charter application is granted, it will be upon the assumption that Phase 4 will not employ a management company.

(d) The applicant failed to demonstrate that its teachers would be employees of the cyber charter school.

Cyber charter schools are permitted to contract with for-profit entities so long as the charter school's trustees retain real and substantial authority over educational decisions. *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452 (Pa. Cmwlth. 2000), *aff'd*, 812 A.2d 1172 (Pa. 2002). For example, teachers must be employees of the charter school so that trustees retain the power to hire, fire, and supervise teachers. Phase 4 representatives testified that it would consider entering into a contract with a service provider for ESL and World Language teachers. Since teachers must be employees of the cyber charter school, Phase 4 must employ its own ESL and World Language teachers.

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

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

Phase 4's first year revenue estimate includes \$350,000 in grant funding to be used at least in part for start-up expenses prior to the receipt of recurring revenue. However, Phase 4 failed to identify grant providers and no funds have been committed at this point in time.

(b) The applicant did not describe a planned use for accumulated budget surpluses.

The submitted five-year budget shows an annual surplus that grows to \$1.2 million, and a cumulative five-year surplus of \$3.8 million. During the hearing, Phase 4 representatives stated that this money would be used to support school programs. If those accumulated fund balances are intended to be used for school programs, facilities, or technology investments, the estimated costs should be shown in the budget rather than large positive operating balances and a large accumulated fund balance.

At the hearing, Phase 4 representatives testified that surplus revenues may be used to pay employee bonuses. Non-profit organizations are permitted to generate surplus revenues, but the generated revenue must be retained by the organization for its self-preservation, expansion, or plans. Therefore, Phase 4 failed to demonstrate a correct understanding of applicable

requirements. Perhaps, Phase 4 could include a section in its bylaws discussing how the proposed cyber charter school intends to use generated surplus revenue.

(c) The applicant failed to include accurate revenue and expenditure estimates within its budget.

The “Basic Education Funding Line” (which represents per student payments from school districts) is derived by taking an average per pupil tuition rate from school districts in Southwestern Pennsylvania and multiplying that average by 0.8 (80 percent). It is unclear why this was done. The school should develop per student revenue estimates that take into account the fact that the school will be open to students from any district in the Commonwealth of Pennsylvania. The methodology that multiplies per pupil rates by 0.8 needs to be explained or revised.

It is unclear whether the budget includes sufficient funds to pay for staff at the “drop-in” locations described in the budget. The staff allocation at each location needs to be clearly explained to determine whether the budget is sufficient to operate the drop-in locations as described in the application and at the hearing. It is unclear how the teachers included in the budget would manage to teach normal classes and travel to all of the planned drop-in locations.

In addition, the school intends to hire a CEO/Head Administrator position, but this position is not included in the budget. The budget does not appear to allocate resources for ESL or Special Education services.

Phase 4 failed to include sufficient expenditures for employee benefits in the submitted budget. At the public hearing, Phase 4 representatives stated that benefits are budgeted at 15 percent of salaries. However, PSERS costs alone are expected to exceed 15 percent in 2013-14. In addition, the estimated revenue does not include reimbursements from the Commonwealth for PSERS contributions.

The school does not appear to have budgeted sufficiently for student hardware. During the hearing, a school representative stated that the assumed per student cost for student hardware is \$225 for “an iPad or laptop and printer.” It is unclear whether the school intends to provide iPads or laptops, however, \$225 per student does not appear to be sufficient for equipment that will be capable of running student software. If the school is assuming \$225 per student and 200 students in the first year, it is unclear why the budget line for computers and printers totals \$250,000.

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

In review of the curriculum, Phase 4 showed no evidence of a curriculum framework that clearly describes content and only provided course descriptions. Phase 4 did not include detailed curriculum maps delineating courses to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

Phase 4 did not articulate how planned instruction aligned with academic standards would be provided at all grade levels in the areas of assessment and resources. Phase 4 plans to offer instruction for grades 9-12, but did not provide sample lessons or assessments aligned to the course work being offered.

Phase 4 could not verify that any of its courses were aligned to PA Academic Standards or the PA Common Core Standards. Phase 4 did not offer Health and Physical Education, Advanced Placement Courses, Vocational–Technical education and the Arts. Although Phase 4’s application states that its students would have access to Agora’s web-based curriculum, Phase 4 could not expand or explain the meaning of this concept at the public hearing.

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

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

Phase 4 failed to provide adequate evidence of an ESL Program that is appropriate for the education of ELLs. While the application demonstrated some awareness of the key components of an ESL Program, it failed to provide specifics on how an ESL Program would be implemented at Phase 4.

Phase 4’s application did not specify planned instruction for ELLs. It provided no evidence of a research-based program model for English language acquisition. It failed to provide an ESL curriculum aligned to PA English Language Proficiency Standards and academic standards. It did not account for the number of courses or online time required for ESL instruction. It stated only that “ELLs will receive additional supplemental support and instruction from the ESL teacher periodically during language arts class and during necessary content area classes.” When asked for clarification at the public hearing, the Phase 4 representative’s response was, “I don’t know.”

Phase 4’s application also did not adequately explain how academic content classes would incorporate the PA English Language Proficiency Standards and provide meaningful, comprehensible access to instruction, standards, and assessments. It stated only that ELLs will have appropriate accommodations and students will work with the ESL teacher “to support needs.”

Phase 4's application did not include a process for program exit that applied the PA State Exit Criteria.

The applicant failed to provide evidence of sufficiently developed professional education and teacher induction plans.

A cyber charter school must provide a detailed Professional Education Plan that designates, or provides for the designation of a professional education planning committee consisting of parents, administration representation, teachers and educational specialists designated by their peers, community representation and local business representation. Phase 4 did not include a Professional Education Plan, including the professional development action plan, in its application. Furthermore, Phase 4 vaguely testified as to their understanding of what a Professional Education Plan entails.

Phase 4 representatives stated at the public hearing that they are familiar with the teacher induction guidelines; however, the application failed to include a Teacher Induction Plan. Phase 4 must develop a Teacher Induction Plan that includes an induction coordinator and induction committee (Induction Council) consisting of administration representation, as well as teachers or educational specialist or both designated by their peers.

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

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

Phase 4's application failed to address and meet the requirements of 34 CFR § 300.115(a) and (b) (1) and (2), requiring a continuum of placement options available to meet the needs of students with disabilities. Phase 4's application states that the school "plans to provide a full inclusion program." However, when questioned about the continuum of placement options at the public hearing, only examples of occupational and speech therapy services were given as possible contracted services. Neither the application nor the testimony addressed the school's local capacity to provide services to students with more severe learning or behavioral needs, such as Autism, Emotional Support, and Life Skills Support. Phase 4 failed to demonstrate that its program would provide services to students whose learning needs require more than "full inclusion."

(b) ***The applicant failed to demonstrate that it has sufficient resources established across the state to meet the needs of students with disabilities, including special education service provision, transition planning for post-secondary education, employment, independent living and transportation as a related service.***

As a statewide cyber charter school, Phase 4 would be required to accept students who reside anywhere within Pennsylvania. Phase 4's cyber charter school plan focuses on the Western Pennsylvania region. For the purpose of this application, Phase 4 has not demonstrated that it has built local capacity or established relationships with a sufficient sample of statewide service

providers to meet the needs of students with disabilities. Its “inclusion and resource models” as discussed in the application fail to detail, other than brief references, plans to service students who may have more severe learning, emotional and behavioral needs. Since these students are already represented in the state’s disability population, how will their needs be accommodated within Phase 4’s initial local design? Additionally, the application does not address transition planning and the resources that Phase 4 has established to address post-secondary education, employment and independent living. How will student internships and job shadowing be implemented and monitored? How will college visits and career days be addressed statewide, and what resources have been dedicated to life skills and independent living transition objectives? These services are expected to be in place when the school opens, and plans and resources to address the “who, what and how” are not sufficiently addressed in the application locally or statewide. The application also fails to identify a plan that Phase 4 has in place to ensure that transportation vendors or other resources are arranged that can provide transportation as a related service to students with disabilities when required as a part of their Individualized Education Program (IEP).

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

- (a) *The applicant failed to provide sufficient information to demonstrate preparation and education of students in the area of appropriate online behavior.*

During the hearing, Phase 4 representatives mentioned “drop-in” locations where an in-person orientation to technology would be provided. This orientation would include issues relative to Internet Safety for all students and staff (including monitoring of online activities for minors). However, Phase 4 failed to provide clarity as to what educational experiences students will receive after the orientation period regarding appropriate actions when interacting with others on social networking websites and in chat rooms, as well as cyber bullying awareness and response.

- (b) *The applicant failed to provide sufficient information concerning filtering of content for minors.*

During the hearing, Phase 4 representatives indicated that the course providers K-12 and A+ have functionality built in to address filtering of content for minors. However, Phase 4 failed to submit information as to how this is accomplished and whose responsibility it is to maintain the filtering (teachers, system administrators, etc.).

- (c) *The applicant failed to provide sufficient information concerning the technology that will be provided to students.*

Phase 4 failed to explain the types of equipment that will be provided to each student. Although Phase 4 representatives stated the school would provide its students with laptops and iPads, the

Phase 4 representatives failed to explain the specifications as to the equipment each student would receive.

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

Broadband connectivity is essential for every student to have the same level and quality of access to all instructional materials and collaboration tools within a cyber charter school environment. However, some students in the state may live in areas not serviced with broadband to the home. Regardless of the connectivity available, no student's cyber school education should be limited based on where they live. The cyber charter school must ensure that an equitable, timely education experience is provided to all of its students. However, Phase 4 failed to clarify how the school would address the needs of students who only have dial-up access to their homes. Phase 4 failed to include established policies and procedures as to the specific broadband requirements for students, including options for students who only have dial-up connection. Phase 4 failed to provide information concerning how to serve those students where it is not possible to provide alternate high speed options.

- (e) *The applicant failed to demonstrate compliance with requirements for reimbursement for Internet and related services.*

The CSL requires that a cyber charter school provide or reimburse for all technology and services necessary for the on-line delivery of curriculum and instruction. At the public hearing, Phase 4 representatives testified that the school would reimburse up to \$40 per month to students for Internet access. Accordingly, Phase 4 failed to demonstrate an understanding of the CSL's requirements concerning internet reimbursement.

The applicant failed to demonstrate a necessary understanding of the Department's Comprehensive Planning web application and all of the associated School Improvement Planning tools and failed to articulate measures that would be taken to meet No Child Left Behind (NCLB) and Adequate Yearly Progress (AYP) goals.

During the public hearing, Phase 4 representatives failed to demonstrate any understanding of the ongoing dialogue that the Department has had with the U.S. Department of Education relating to the Accountability Workbook, which is updated at least yearly and contains critical information affecting all Commonwealth public schools. Phase 4 failed to provide a viable alternative to the Department's planning process which would ensure compliance with all federal and state, district and school level planning requirements. Due to Phase 4's stated lack of familiarity with the Department's planning process, a plan to ensure all federal and state requirements will be met was not presented in the application or at the public hearing.

During the public hearing, the Department's representatives described the gains that must be made by students to meet No Child Left Behind (NCLB) thresholds. In some cases, meeting these thresholds would require the school to ensure that students achieve multiple year gains in a single school year. Despite targeting specific student populations, Phase 4 representatives failed to demonstrate an understanding of specific achievement needs of students likely to enroll in the

school. Phase 4's application lacks information on any unique strategies that would be offered to address the extraordinary gains needed to achieve the NCLB thresholds.

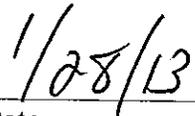
Conclusion

Based on the deficiencies identified above, individually, collectively, and in any combination, Phase 4's application is denied.

Phase 4 may appeal this decision to the State Charter School Appeal Board (CAB) within 30 days of the date of mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 17-1746-A. In the alternative, Phase 4 may exercise a one-time opportunity to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). To allow sufficient time for the Department to review the revised application, the revised application must be received by the Department at least 120 days prior to the originally proposed opening date for the cyber charter school. A revised application received after this time period will be returned to the applicant with instructions to submit a new application in accordance with 24 P.S. § 17-1745-A(d).



Ronald J. Tomalis, Secretary of Education



Date