



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

May 16, 2023

VIA CERTIFIED MAIL AND E-MAIL

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

Dear Mr. LeBlond:

After reviewing Pennwood Cyber Charter School's Revised Application, it is the decision of the Pennsylvania Department of Education to deny the application. Please review the pages that follow for more information.

If you have any questions, please contact Randy Seely, Chief, Division of Charter Schools, at rseely@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Mumin", written over a large, light-colored oval shape.

Khalid N. Mumin, Ed.D.
Acting Secretary of Education

Enclosure

cc: Jeffrey Fuller, Ed.D., Deputy Secretary, Office of Elementary and Secondary Education
Carrie Rowe, Ed.D., Advisor to Deputy Secretary, Office of Elementary and Secondary Education

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 cyber charter schools. A cyber charter school applicant must submit its application to the Department by October 1 of the school year preceding the school year in which the applicant proposes to commence operations. Following submission of an application, the Department is required to: 1) hold at least one public hearing on the application; and 2) grant or deny the application within 120 days of its receipt.

Pennwood Cyber Charter School (hereinafter referred to as “Pennwood” or “Applicant”) submitted an application to establish a cyber charter school (“Application”) on September 26, 2022. On October 1, 2022, the Department provided notice of a public hearing for cyber charter school applications. In accordance with the public notice, the Department received comments in opposition to and in support of the Application. The Department held a public hearing for Pennwood’s application on November 10, 2022 (hereinafter referred to as “November 10 Hearing”) and denied the Application on January 13, 2023 (hereinafter referred to as “January 13 Denial”).

The CSL permits a cyber charter school applicant to revise and resubmit its application to the Department (24 P.S. § 17-1745-A(g)). Pennwood submitted a revised application, received by the Department on March 17, 2023 (hereinafter referred to as “Revised Application”).¹

Decision

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

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

24 P.S. § 17-1745-A(f)(1).

¹ The Revised Application was a summary list attempting to address the deficiencies identified in the January 13 Denial; along with new supplementary material, as well as incorporating the Application.

Based on a review of the Revised Application, the Department denies Pennwood's application. While a single deficiency would be grounds for denial, the Department has identified deficiencies in two criteria set forth above. Discussion of the specific deficiencies follows.

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

The Applicant fails to demonstrate proper planning regarding independence from its educational service provider.

The Applicant's proposed budget shows a grant for its start-up year from Pearson for \$350,000, which is higher than the total projected expenditures for Pennwood. According to the Revised Application, the loan will not be repaid and is instead "a start-up grant that does not constitute repayment". The Applicant notes that "Pearson would rather award the School an up-front, non-repayable grant than to see the School repay a loan that would include interest payments" (Revised Application, p. 8). Based on this grant agreement, Pennwood's position is that there is no financial dependence on its education service provider, Pearson.

However, Pearson will provide services to Pennwood, particularly around public information and enrollment services, and Pearson will bill for these services the subsequent school year despite the start-up grant (Revised Application, p. 9). The Revised Application does not clarify the cost of the services provided during the start-up year that will not be billed until the subsequent year. This payment structure also appears to conflict with the draft statement of agreement which states that "Pearson shall invoice the school monthly unless the Parties agree in writing otherwise. The School shall remit payment to Pearson for these invoices within 30 days of being presented for Governing Board approval" (Application, Appendix N, p.179).

In the January 13 Denial, the Department found deficiencies related to Pennwood's independence from its education service provider, Pearson. The response in the Revised Application did not directly address issues raised in the Decision related to its independence including:

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

and formalized performance review sessions (Application, Appendix N, p. 170).

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

Likewise, the issues regarding Pennwood's public information campaign or marketing campaign calling into question the Board's authority and independence from Pearson were not addressed in the Revised Application. The January 13 Denial noted the following deficiencies:

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

Specifically, the Revised Application did not address the provisions that would limit the ability of the Applicant to make decisions regarding how it will market itself or recruit students outside of its relationship with Pearson, which in turn, gives Pearson significant control over how the Applicant will operate and its overall viability. As enrollment drives the majority of cyber charter revenues, these provisions extend beyond the termination of the contract, limiting the Applicant's ability to act independently, and threatens the viability of school operations. By allowing Pearson to refuse to implement public relations initiatives, and requiring all public relations be subject to Pearson's approval, the Applicant is limiting the Board of Trustees' authority regarding outreach and communications, potential recruitment efforts, and strategic planning of its own school.

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

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

The legislative intent underlying the CSL argues for improved student learning, new and increased learning opportunities for students and educators alike, and accountability for meeting measurable academic standards. As a result, the Department is charged with evaluating a cyber charter school applicant, in part, on the degree to which it may serve as a model for other public schools, which includes other cyber charter schools. The Department turns to the dictionary for a straightforward definition: “An example for imitation or emulation.” Model Definition, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/model> (last visited May 15, 2023). Based on the deficiencies discussed above under Criterion 2, along with the analysis that follows, Pennwood fails to substantiate that it will serve as a model for other public schools.

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

Currently, all 13 of Pennsylvania’s cyber charter schools have been designated as Comprehensive Support and Improvement (CSI) schools, including two schools that were originally affiliated with Pearson. While Pennwood would prefer the Department not compare it to other cyber charter schools, the comparison is valid and Pennwood has provided no argument or evidence to indicate otherwise. Pennwood stated in the Revised Application that its model is unique and not comparable to other cyber charter schools because it provides additional weeks of instructional time and has formed a partnership with Drexel University’s Goodwin College. However, several other cyber schools offer additional instructional time, and with recent changes to state law, all cyber charters are required to have partnerships with institutions of higher learning to provide dual credit opportunities for students. The Applicant focuses on its alleged innovative teaching methods and increased learning opportunities but, by virtue of the fact that it proposed lackluster academic goals, Pennwood failed to recognize that the CSL was also intended to increase pupil learning; therefore, Pennwood cannot serve as a model school.

Relative to academic proficiency, Pennwood’s Application failed to list specific goals. While the Revised Application included proposed proficiency targets with 2% annual growth, Pennwood failed to recognize the amended state goals, which were released on March 10, 2023. Instead, Pennwood used the previous state goals, which were through 2030. Regardless, Pennwood’s goals fall short of the Statewide goals for Math and English Language Arts. The targets used for the Revised Application were the current state averages with long-term goals of 2% growth each year until it achieves the state-established long-term goals. For example, Pennwood has established a PSSA/PASA Math aspirational proficiency target of 34% and a long-term goal of 71.8% by 2030. Even if the school were to realize 2% growth each year and extend it to 2033,

the new target year, the schools would still fall about sixteen percentage points short of the Statewide goal in 2033. Similarly, Pennwood's PSSA/PASA English Language Arts aspirational target of 55% plus 2% annual growth would still be four percentage points short of the 2033 Statewide goal of 81.1%.

Interestingly, despite Pennwood's objection to being compared to the cyber charter school averages for academic performance, this is exactly what the Revised Application suggests should be acceptable when it comes to viewing graduation rates. Pennwood proposes a graduation rate of 85%, higher than the average of any school that it included in its Revised Application, but lower than the graduation rate of brick-and-mortar charter schools (86.86%) and traditional public schools (89.84%). Moreover, the Revised Application limits Pennwood's graduation rate goals to include only those entering 9th grade for the first time with Pennwood or being on-track to graduate with their 4-year cohort at the time of enrollment in Pennwood's High School program. ESSA requires the 4-year cohort graduation calculation for public schools to include all students, regardless of when they enroll in a given high school and precludes the use of Pennwood's alternative calculation methodology. Therefore, it cannot be claimed that achieving this graduation rate would allow Pennwood to serve as a model for other public schools since it proposes ignoring part of its student population.

Lastly, Pennwood refutes the testimony of ML Wernecke, whose public comments suggested that Pearson's failing performance in managing two other Pennsylvania cyber charter schools provides compelling evidence that Pennwood would not meet the academic requirements of ESSA, the academic and graduation goals were average at best, and at least one (and soon both) of these schools will have moved away from the Pearson-approved curriculum, as it has delivered sub-par outcomes. In the Department's original rejection, it was stated that there is insufficient evidence that either the proposed C-Term or badging would close the significant gaps witnessed in other Pearson-managed schools. Pennwood's Revised Application points out that there were 11 letters of support in their application, which is true. However, of these letters, eight of these were from legislators, several of these being form letters, and none have provided clear and compelling evidence that Pennwood would be operating independently of Pearson, a concern addressed in criteria 2 above, or that Pennwood would serve as a model for other public schools.

For these reasons, in addition to the findings for Criterion 2, Pennwood is not a model for other public schools, including cyber charter schools. Accordingly, the Revised Application is denied.

Conclusion

The Department must evaluate a cyber charter school application, whether initial or revised, against five statutorily enumerated criteria. Based on a thorough review of the Revised Application, the Department finds deficiencies for two of the criteria set forth in section 1745-A of the CSL. These deficiencies—individually or collectively—are cause to deny the Revised Application.

Pennwood may appeal this decision to the State Charter School Appeal Board within 30 days of the date of the mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 1746-A. A copy of any such appeal must be served 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.



Khalid N. Mumin, Ed.D.
Acting Secretary of Education

Date mailed: May 16, 2023