

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF EDUCATION
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DEPUTY SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

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Mr. Nicholas D. Torres Education Plus Academy Cyber Charter School mickdtorres@verizon.net

DELIVERED VIA EMAIL

Mr. Torres:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Education Plus Academy Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny your application.

Your application provided several unique components that will provide students with an interesting new opportunity. However, the reviewers have noted several deficiencies in the pages that follow.

When PDE denies a cyber charter school applicant a charter, the applicant may revise and resubmit the denied application or may appeal the denial to the Charter Appeal Board. A cyber charter school applicant may only revise and resubmit a denied application to PDE one time. Any revised and resubmitted application must be provided to PDE within at least 120 days prior to the originally proposed opening date of the cyber charter school.

If you have any questions, please contact Marlene Kanuck at (717) 783-9294 or at mkanuck@pa.gov.

Carolyn C. Dumaresq, Ed.D.

The Proposed EPAC Charter SchoolCyber Charter School 2011 Cyber Charter School Application

Background

Amendments to the Charter School Law ("CSL"), 24 P.S. §§17-1701-A – 17-1751-A, that became effective July 1, 2002, include new Subchapter (c), which sets forth new provisions for the establishment and oversight of cyber charter schools. *See*, Act of June 29, 2002, No. 88, §14, adding 24 P.S. §§17-1741-A to 17-1751-A ("Act 88"). Pursuant to Act 88, the Department of Education (the "Department") has the authority and responsibility to receive, review and act on applications for the creation of a cyber charter school. Act 88 requires that cyber charter school applicants submit applications to the Department by October 1 of the school year preceding the school year in which the cyber charter school 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.

- On October 3, 2011, the proposed EPAC Charter SchoolCyber Charter School submitted an application to operate as a cyber charter school
- The Department provided 30 days notice of a public hearing that was held on December 1, 2011.
- At the hearing, EPAC Charter SchoolCyber Charter School presented the Department with information about its application. Department personnel who had reviewed the application also posed questions to the EPAC Charter SchoolCyber Charter School representatives.

The Application

On October 3, 2011, the proposed EPAC Charter SchoolCyber Charter School submitted to the Department an application to operate a cyber charter school. The Department is to evaluate the application based on 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.

The Proposed EPAC Charter SchoolCyber Charter School will:

- Enroll students in grades K-12
- Be headquartered in Philadelphia, Pennsylvania
- The maximum projected student enrollment for year one is 100 students, increasing to 300 for year five.

Decision of the Pennsylvania Department of Education

Based on a thorough review of the written application as well as questions and responses recorded at the December 1, 2011 public hearing, the Pennsylvania Department of Education is denying the application of the EPAC Charter SchoolCyber Charter School (EPAC).

Members of the review committee feel strongly that the framework for the EPAC Charter School provides several components that we hope will serve as a model to other cyber charters and traditional schools. Specifically, the plan to specialize in services for children with language-based learning disabilities such as dyslexia, dysgraphia, and dyscalculia and helping students with disabilities increase skills in reading, writing, and spelling targets students is unique.

However, the following deficiencies must be sufficiently addressed before a charter could be approved:

- EPAC Charter School's curriculum must be complete and aligned to the Pennsylvania State Academic Standards must be addressed.
- EPAC Charter School must address the absences of a Speech-Language Pathologist within context of the population to be served.
- EPAC Charter School's application failed to provide sufficient evidence of an ESL Program that is appropriate for the education of English language learners.
- EPAC Charter School's application does not include a description and address for physical facilities. The applicant should clarify where space will be leased and whether all costs for physical space are included in the budget.
- EPAC Charter School must provide complete Professional Education and Teacher Induction plans
- Technology for all students across the state must be provided and equitable. EPAC
 Charter School must provide an Acceptable Use Policy (AUP) and an Internet Safety
 Policy (ISP).
- EPAC Charter School must submit Articles of Incorporation, By-Laws and proof of insurance.
- EPAC Charter School must correct the application, which identifies members of the Board who are with entities that are expected to contract with Education Plus.
- EPAC Charter School must remove these inaccurate statements from the application as outlined in Detailed Response.

Detailed Response

Proof of curriculum and assessment alignment must be submitted to the Department to ensure that requirements of Chapter 4 are met:

In review of the curriculum, EPAC Charter School showed no evidence in any of the subject areas of a complete curriculum framework that clearly describes content. When asked if they had curriculum in the application they stated that they did not go into curriculum detail in their application. Unfortunately nothing additional can be submitted in the application review meeting. They did not include curriculum maps delineating course to be offered and how it meets the requirements of 22 Pa. Code Ch4. (relating to academic Standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch4. EPAC Charter School did not articulate how planned instruction aligned with academic standards shall be provided at all grade levels. The only documentation that was provided in the application was a curriculum guide for the grade levels being offered. When asked the question if the curriculum has been developed for grades being offered they stated yes, however EPAC Charter School suggested that they were going to have many different course providers for courses and various grade levels. This is a large concern for instructors and flow from grade level to grade level, if Innovate has different course providers for the same subject area at different grade levels. EPAC Charter School was unclear on the platform on which teachers would provide instruction and also they did not provide enough information on the recreation centers in which EPAC Charter School would develop. Lastly, the application stated that only four full time teachers were going to be used this will make the teacher to student load difficult if the school decides to use the many different education platforms that were stated.

EPAC must address the absence of services of a Speech Pathologist in their application:

In addressing the needs of children with learning disabilities, the members of EPAC Charter School acknowledged the services of a partner school to assist. However, children with learning disabilities will need consistent, rigorous instruction in social protocols and unwritten social curriculum to navigate and actively participate within the norms of society in a socially appropriate manner. The members at no time addressed how they would incorporate the services of a Speech Language Pathologist for meeting this student need. Assistance to this end was implied but not spelled out in a comprehensive plan which would benefit all enrolled students of this targeted population. In addition, Speech Language Pathologist services are a necessary component for language comprehension, reading skills, speaking and listening skills for children with learning disabilities. At no point did Education Plus mention how they would integrate the services of this necessary component for this population of students.

The following ESL issues must be addressed:

EPAC Charter School's application failed to provide sufficient evidence of an ESL Program. Although EPAC stated that "Pan American is partnering with [their] cyber charter school" and that aspects of this dual language program "would be translated into the cyber charter as well,"

the application demonstrated little awareness of Pennsylvania requirements for the education of English language learners. To begin, EPAC Charter School provided an insufficient explanation of a process for identification and placement based on administration of a Home Language Survey, use of the W-APT for formal assessment, and consideration of multiple criteria for placement. It provided no evidence of Pennsylvania's required criteria for program exit, nor evidence of a plan to monitor progress of former ELLs for 2 years after exit.

Even though EPAC Charter School pointed out that "[they] are very conscious of how children learn in multiple languages," the application did not specify planned instruction for English language learners beyond indicating that they "hope to model" the "direct instruction in the classroom with our ELL teacher" from the partner school. EPAC Charter School provided no evidence of an Instructional model based on sound educational theory, that allows for appropriate staff and resources, and is regularly evaluated using ACCESS and PSSA data. EPAC Charter School's application provided no evidence of English language acquisition classes that deliver daily instruction based on proficiency level, using curriculum aligned to PA ELPS and PA academic standards in order to facilitate students' achievement of English proficiency. It failed to provide an ESL curriculum aligned to PA ELPS and academic standards. It did not account for the number of courses or online time required for ESL instruction. Similarly, the application contained no specifics on how academic content classes would provide meaningful, comprehensible access to instruction and standards and would incorporate the PA ELPS. Finally, EPAC Charter School failed to provide a description of how it would ensure that ELLs were administered the annual English language proficiency assessment (ACCESS for ELLs) and that ELLs participated in the annual academic assessments (PSSAs) as appropriate with accommodations. In fact, EPAC Charter School pointed out that they've "budgeted a person over the years, as the student population increases, that could be hired to address those specific needs, understanding that's a specialty that maybe some of our traditional teachers may not have."

The following financial issues must be addressed:

No ELL position was budgeted for the first year, despite a potential need if ELL students are enrolled. At the hearing, school representatives stated that if there is a need for a full- or part-time ELL coordinator in the first year, they would incorporate them into the staff and budget. The applicants did not state whether any other salaries or expenses would need to be reduced in order to add this position.

The budgeted amount for travel and transportation appears low at \$1,400. Learning coaches are expected to travel to students, who may be located throughout the state, so the budgeted amount may be understated. A school representative stated that this number may increase after it is known where students will be located. If the school anticipates transportation and travel expenses they should be included in the budget.

The cyber charter application does not address the future method of election/appointment of Board members. School representatives did note that no board members will have a contract relationship with the school.

The application does not include a description and address for physical facilities, and does not explain how the anticipated facility would be suitable. The application states that Public Health Management Corporation (PHMC) was "selected preliminary" as the lessor for physical space. It is unclear (both in the application and based on statements made at the hearing) where teachers will work. The budget includes rent payments for just 480 square feet of office space, which appears to only include space for administrative staff. During the hearing, a school representative stated that at least some space will be provided by contract with PHMC. The applicant should clarify where space will be leased (through PHMC contract or separate lease agreement) and whether all costs for physical space are included in the budget.

Professional Education and Teacher Induction plans in the application were limited or not included:

The Professional Education Plan was limited to a description of how the Wilson Reading System and LETRS framework will provide professional development for teachers who have direct contact with students. There was no Teacher Induction Plan in the application.

The EPAC 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. The plan and subsequent information should explain how the school will assess the professional education needs, and necessary professional education activities that will be provided in the interim startup phase of operation and/or the first three years of the school's operation. In order to meet the professional development action plan, the school's activities must comply with content area, teaching practices, and meeting the needs of diverse learners. The plan must also explain how the school's professional education program will be evaluated to determine its effectiveness so that adjustments and changes could be made. The school stated in their interview that "the professional development that they're using will access research-based, very explicit teaching."

The EPAC Charter School stated in the interview hearing that they are aware of the Teacher Induction guidelines however they must develop a Teacher Induction Plan that includes a teacher induction committee (Induction Council) consisting of administration representation, as well as teachers or educational specialist designated by their peers. This plan must provide goals and competencies and an assessment process. The plan must explain how a school induction team will be set and how mentors will be designated and matched with the new teachers in a sustainable mentor-inductee relationship. The plan must also include the Code of Professional Practice and Conduct as stated in 22 Pa. Code 235 as one of many activities. The plan must also provide an explanation of how the induction program will be monitored and evaluated along with how records relating to program participation and completion will be maintained.

EPAC Charter School must address technology issues outlined below:

Equipment/Connectivity

As a 'cyber school', it is essential that every student have equitable access to learning opportunities; therefore, EPAC Charter School should reassess their budget and establish specific minimum equipment and connectivity standards that are adequate for accessing all online resources to be used by students, including instructional materials and communication/collaboration tools, as well as the virtual synchronous learning environments.

In cases where no broadband options are available to the student's home, procedures should be established that outline how equitable alternatives will be provided (e.g., wireless Internet aircards, satellite service, or access to community or educational centers with broadband connectivity).

Acceptable Use Policy (AUP)/Internet Safety Policy (ISP)

In compliance with CIPA and the PA Child Internet Protection Act (Act 197 of 2004), an Acceptable Use Policy (AUP) and an Internet Safety Policy (ISP) must be developed to address appropriate and safe technology and Internet use. The policies must include new updates to the Federal Children's Internet Protection Act (CIPA), including provisions to educate minors about appropriate online behavior, interacting with other individuals on social networking websites/chat rooms, and cyber bullying awareness/response. In addition, filtering software must be provided and enabled.

Curriculum & Instruction

Standards for 21st century literacy, such as the International Society for Technology in Education (ISTE) standards, should be adopted for both staff and students. Professional development to foster these 21st century competencies beyond equipment usage should be provided and student instruction should incorporate 21st century skills development. Metrics for 21st century literacy should be defined and performance assessed.

EPAC Charter School must demonstrate sustainable support:

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.

EPAC Charter School stated in its application that letters of support have been received from partnering organizations and some founding board members. In addition, signatures have been obtained from prospective parents of students who are academically behind and learning disabled children seeking a school providing specialized services to learning disabled and dyslexic students. In addition, letters of support have been obtained from a sample of psychologists and schools indicating that they would refer appropriate students to the EPAC Charter School. These letters are located in the Appendix.

However, there was not an Appendix submitted with the application; thus, EPAC Charter School has not demonstrated sustainable support for the cyber charter school plan.

Admissions Policy:

In its application, EPAC Charter School states that it will comply with state regulations regarding student privacy. However, for the safety of all students, the School will as a matter of course ask students to disclose whether they have been convicted of a crime and the nature of the offense. If the EPAC Charter School CEO/Principal or designee deems that admitting the student would pose a significant risk to the health and safety of the other students, the CEO/Principal may deny the student admission to the School.

EPAC Charter School must provide the legal basis supporting its belief that it can ask a student if he or she has been convicted of a crime and the nature of the crime. It must also provide the legal basis supporting its belief that it can deny admission to student if the CEO/Principal believes the student would pose a significant risk to the health or safety of other students.

Age of Beginners and Kindergarten Students:

On the Fact Sheet of the application, EPAC Charter School states that the entry age for both kindergarten students and beginners is 5 years of age. Beginners are defined in the State Board of Education regulations as a child who enters the lowest elementary school grade that is above kindergarten. In addition, the minimum entry age of beginners is defined in the regulations and it cannot be the same entry age as for kindergarten students. Thus, EPAC Charter School must correct this inaccuracy.

Articles of Incorporation and By-Laws must be submitted:

Although EPAC Charter School stated that its Articles of Incorporation and Bylaws were attached to the application, there were no such attachments. These documents must be provided by EPAC Charter School.

Proof of insurance must be provided:

EPAC Charter School states that it will obtain insurance based on the best practices of other schools and will provide sufficient coverage. The cyber charter school application requires that the applicant provide evidence of insurability in specifically identified, such as health and general liability, school operation, Directors' and Officers' liability coverage, etc. Thus, EPAC Charter School is not in compliance with the application requirements, which require evidence that the applicant has obtained preliminary approval for insurance in these areas.

Organization:

EPAC Charter School intends to contract with a number of entities including Education - Plus, Inc., Idaho, Public Health Management Corporation ("PHMC") and National Nursing Centers Consortium ("NNCS"). In particular, PHMC will provide management services that include:

business operations, office management, insurance/banking broker arrangements including access to line of credit, and a quality assurance structure including student/parent satisfaction and assistance with reporting. As part of the contract, PHMC will provide facilities that will include telecommunications and computer, technology equipped classrooms; common areas for parent training, conferences, and other school-related activities; access to conference rooms; and office space for administrative and educational records. In addition, PHMC has extended its line of credit to ensure that EPAC Charter School can meet expenses until a significant fund balance is reached and/or a line of credit can be established.

Although PHMC has not been identified as an education management organization, it appears that it will provide many management services in addition to extending its line of credit to EPAC Charter School for some period of time. In addition, the Vice-President of PHMC is Tine Hanen-Turton, who is identified as a possible member of EPAC Charter School's Board of Trustees. EPAC Charter School also intends to enter into a contract with NNCS. Ms. Hanen-Turton is the Chief Executive Officer of the National Nursing Centers Consortium.

In addition, EPAC Charter School intends to enter into a contract with Education-Plus, Inc., Idaho. Mary Schuler who is the President of Education-Plus, Inc., Idaho, is related to Nicholas Torres who is President of Education-Plus, Inc., Pennsylvania. In addition, both Tine Hansen-Turton and Elizabeth Polizzi are on the board of Education Plus, Inc. Pennsylvania.

The Department appreciates that EPAC Charter School identified the relationships of the people and entities with which it intends to contract. EPAC Charter School also acknowledges that if any of these individuals are members of its Board of Trustees they must recuse themselves from the discussion and Board vote for approval of these contracts. The Department has serious concerns about these relationships and the potential influence that these entities and people will have on the operations of the proposed charter school. Without being able to review finalized agreements with these entities, it is difficult, if not impossible, for the Department to ensure that the Board of Trustees will have ultimate control of the operations of the proposed cyber charter school and that there will not be undue influence exerted by these people as Board members. This is particularly concerning since there are six initial Board members and three are, to some degree, involved with entities with which EPAC Charter School intends to contract.

During the public hearing, EPAC Charter School stated that there would not be any members of the Board of Trustees who have contracts with Education Plus. Therefore, EPAC Charter School must correct the application, which identifies members of the Board who are with entities that are expected to contract with EPAC Charter School.

Miscellaneous:

In discussing the need for such a school and why the cyber charter school model is appropriate to address this need, EPAC Charter School notes that cyber charter school students do not have to miss out on all the social benefits and activities of a traditional school because EPAC Charter School will provide a number of these activities. However, EPAC Charter School also states that "parents can enroll their child in the local public school district to get some services from the intermediate unit. The public school is not allowed to prohibit a parentally-placed private school

student from enrolling in the school district to receive services, such as occupational therapy, and to participate in activities, such as choir, sports, or clubs."

It is true that cyber charter students are permitted to participate in extracurricular activities of their resident schools districts if the charter school does not provide those activities and the charter school students fulfill the requirements of participation. However, it is not accurate to state that parents of cyber charter school students can enroll their children in the local public school to get services from the intermediate unit. When a student is enrolled in a cyber charter school the student cannot also be enrolled in the local public school, or even a private school. In addition, any reference to a student who is parentally-placed in a private school is not relevant to a cyber charter school student because a cyber charter school is a public school not a private school. Thus, EPAC Charter School must remove these inaccurate statements from the application.

Regarding EPAC Charter School's admissions policy, it states that it will give preference to siblings of students presently enrolled in PA Cyber Academy Charter School. It also states that completed enrollment packets are due back to PA Cyber Academy Charter School. Finally, it is stated in the application that the ultimate goal of PA Cyber Academy Charter School requires a new model of student support. These inappropriate references to PA Cyber Academy Charter School must be corrected.

Based on the deficiencies identified above, the Education Plus Academy Charter School

Cyber Charter School's application submitted to the Department is denied.

Deputy Secretary

Office of Elementary & Secondary Education