

DEPARTMENT OF EDUCATION

In Re: Achievement House Charter School : 2002
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 September 27, 2002, Achievement House Charter School (“Achievement House”) submitted an application to operate as a cyber charter school. The Department provided 30 days notice of a public hearing to be held on December 16, 2002. At the hearing, Achievement House presented the Department with information about its application. Department personnel who had reviewed the application also posed questions to Achievement House’s representatives.

Findings of Fact

1. On September 27, 2002, Achievement House submitted to the Department an application to operate a cyber charter school.
2. 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.

24 P.S. §17-1745-A(f)(1).

3. Achievement House provided a summary of the results of: (1) a survey of seventy-five parents residing within the four targeted school districts;¹ (2) teacher focus groups; and (3) a discussion with representatives of the four targeted school districts. (App., Appendix M).²

4. Of the seventy-five parents surveyed, twenty-four expressed an interest in sending their children to the proposed cyber charter school. (App., Appendix M, Table 19).

5. The summary of the teacher focus groups identified questions teachers had that reflected concerns about the proposed cyber charter school and suggestions the teachers proposed for addressing the concerns. (App., Appendix M).

¹ Reference is made to four targeted school districts because Achievement House will require that students physically attend the cyber charter school facility at least one day per week. Therefore, Achievement House believes this will limit the potential draw of students to its school from the four school districts in the area, which are Radnor, Lower Merion, Tredyffrin-Eastown and Haverford.

² App. refers to the application submitted to the Department by Achievement House.

6. The summary of the teacher focus groups did not indicate that any of the teachers had expressed support for the cyber charter school plan or had any interest in teaching in the proposed cyber charter school. (App., Appendix M).

7. A summary of the discussion with representatives from the four targeted school districts showed that: (1) the districts previously developed a cyber charter school to handle the same type of students being targeted by Achievement House; (2) the districts appeared open to cooperating and assisting in the formation of an alternative school within the jurisdiction of the districts; and, (3) the districts would not react favorably to receiving an application for a charter school. (App., Appendix M).

8. Articles of Incorporation for Achievement House were not provided in the application.

9. The first page of a letter approving Achievement House Educational Services, Inc. as a 501(c)(3) organization was provided in the application. (App., Appendix D).

10. At the December 16 hearing, Achievement House's representative stated that the Board of Directors of Achievement House Educational Services, Inc. is the board that would control the cyber charter school, Achievement House. (N.T. at 41).³

11. In its application, Achievement House stated that the Plato curriculum would be used for the cyber charter school. (App., p. 5).

12. During the December 16 hearing, Achievement House representatives stated that Class.com would also be used as a curriculum at the cyber charter school. (N.T. at 5, incorrectly identified in the transcript as Fast.com).

13. Achievement House stated, in its application, that Plato Learning, Inc. attested that its curriculum meets the Pennsylvania standards but Achievement House believes there are

³ N.T. refers to the Notes of Testimony from the December 16, 2002 hearing regarding Achievement House.

some areas that may need support and its teachers will review the entire curriculum in their area and make adjustments necessary to meet standards. (App. Addendum, pp. 7-8).

14. Achievement House stated, in its application, that the school's academic goals and objectives are: (1) to provide college preparatory courses of study; (2) to have the students proceed at their own rate; and, (3) to expect the students to master the material by requiring an 80% performance to proceed to the next unit of learning. (App., p. 4).

15. Achievement House will require that students attend the physical location of the cyber charter school at least one day per week. (App., p. 12; Addendum, pp. 8, 11, 18; N.T. at 7-8, 28).

Conclusions of Law

1. The results of the parent survey and the discussions with teacher focus groups and with representatives from the four targeted school districts do not demonstrate sustainable support for the cyber charter school plan. 24 P.S. §17-1745-A(f)(1)(i).

2. Achievement House must be incorporated as a public, nonprofit corporation and Articles of Incorporation must be provided to the Department.

3. Achievement House Educational Services, Inc., is a private nonprofit corporation, and its Board of Directors cannot control the cyber charter school, Achievement House, which must be an independent public school and organized as a public, nonprofit corporation. *See*, 24 P.S. §17-1703-A(definition of cyber charter school).

4. Achievement House failed to provide any significant information about the Class.com curriculum it expects to use, and without being provided more information about this curriculum, the Department is unable to determine if this curriculum meets Pennsylvania standards. 24 P.S. §17-1747-A(1).

5. The academic goals provided by Achievement House, in its application, are general and very limited and do not provide the Department with information about how the goals will be measured.

6. Achievement House cannot require school districts to provide transportation to students attending Achievement House beyond the requirements of the CSL. 24 P.S. §17-1726-A, *as amended*.

7. Achievement House will not serve as a model for other public schools. 24 P.S. §17-1747-A(f)(1)(v).

Discussion

As noted above, Achievement House has failed to meet several requirements of the Charter School Law. We review these matters below.

Demonstrated Sustainable Support

In an attempt to demonstrate sustainable support for its cyber charter school plan, Achievement House provided the results of: (1) a survey of seventy-five parents residing within the four targeted school districts; (2) teacher focus groups; and (3) a discussion with representatives of the four targeted school districts. (App., Appendix M). The parent survey consisted of telephone interviews of 75 parents within the four targeted school districts. The parents were asked a variety of questions about their children's current education and about certain aspects of the proposed cyber charter school. Of the seventy-five parents surveyed, twenty-four expressed some interest in sending their children to the proposed cyber charter school. (App., Appendix M, Table 19).

Achievement House also held teacher focus groups to discuss its proposed cyber charter school plan. The summary of the teacher focus groups identified questions teachers had that

reflected concerns about the proposed cyber charter school and suggestions the teachers proposed for addressing the concerns. (App., Appendix M). The summary of the teacher focus groups did not indicate that any of the teachers supported the cyber charter school plan or had expressed any interest in teaching in the proposed cyber charter school. (App., Appendix M).

A summary of the discussion with representatives from the four targeted school districts showed that: (1) the districts previously developed a cyber charter school to handle the same type of students being targeted by Achievement House; (2) the districts appeared open to cooperating and assisting in the formation of an alternative school within the jurisdiction of the districts; and, (3) the districts would not react favorably to receiving an application for a charter school. (App., Appendix M).

Although Achievement House discussed its cyber charter school plan with teacher focus groups and representatives from the four targeted school districts, this information does not demonstrate sustainable support for the cyber charter school plan. The teacher focus groups provided Achievement House with information about concerns the teachers had with its proposal and suggested resolutions. However, there was no information that any of the teachers supported this proposed cyber charter school or were interested in possibly teaching in this school. The information from the representatives of the four targeted districts also did not show support for this cyber charter school plan. Although the representatives apparently indicated their possible cooperation in the formation of an alternative school, they certainly did not state their support for this cyber charter school plan.

The most relevant information Achievement House provided to try to demonstrate sustainable support was the parent survey, which included a question about whether the parent would be interested in this cyber charter school. (App., Appendix M, Table 19). “[S]ustainable

support means support sufficient to sustain and maintain the proposed charter school as an on-going entity.” See, e.g., *In re: Ronald H. Brown Charter School*, No. CAB 1999-1, p. 18.⁴

Twenty-four of the seventy-five parents expressed some interest in this cyber charter school. However, the summary of the survey results, about whether the community has an interest in the charter school, provides that approximately 2½% of the families in the target market who heard about the program fully might switch schools. (App., Appendix M). This does not provide sufficient information to demonstrate that there are a significant number of parents interested in this cyber charter school plan to sustain and maintain the proposed charter school as an on-going entity. Therefore, even though twenty-four of the seventy-five parents expressed some interest in the school, the Department finds that this does not meet the requirements of Section 17-1747-A(1).

Articles of Incorporation

Achievement House has not filed Articles of Incorporation with the Commonwealth, and therefore, did not provide a copy of Articles of Incorporation to the Department. A copy of the Articles of Incorporation must be submitted with the application. This is implicit in the decision in *West Chester School District v. Collegium Charter School*, 760 A.2d 452 (Pa. Commw. Ct. 2000), *aff'd*, 2002 Pa. LEXIS 2836 (Pa. Dec. 20, 2002), when the Court denied one of the school district’s claims because Collegium’s articles of incorporation established that it was organized as a non-profit corporation under Pennsylvania law. *Collegium*, 2002 Pa. LEXIS 2836 at *34. Without being able to review the Articles of Incorporation, the Department simply cannot determine that the charter school is “an independent public school” and a “public, nonprofit

⁴ In making decisions on cyber charter school applications, the Department is guided by prior interpretations of the CSL from the State Charter School Appeal Board and the courts. Such decisions are particularly relevant where, as here, the provisions of the CSL that apply to traditional charter schools are so similar to the provisions of subdivision (c) of the CSL that are applicable to cyber charter schools.

corporation” as all cyber charter schools must be. *See*, 24 P.S. §17-1703-A (definition of “cyber charter school”).

It is particularly critical in this case that the Articles of Incorporation be provided because, at the December 16 hearing, Achievement House’s representative stated that the Board of Directors of Achievement House Educational Services, Inc. would control the cyber charter school, Achievement House. (N.T. at 41). Even though Achievement House Educational Services, Inc. received 501(c)(3) status (App., Appendix D), there is no evidence that it is organized as a public nonprofit corporation or is an independent public school. Therefore, it cannot receive a charter and its Board of Directors cannot control the cyber charter school, Achievement House. It is imperative that the Articles of Incorporation be included in the application so the Department is certain that the charter school is an independent public school, organized as a public, non-profit corporation and that it is not the subsidiary of another entity. Articles of Incorporation is the only way the Department can verify that Achievement House is an independent public school, organized as a public, non-profit corporation.

Section 1747-A(1)

Section 1747-A(1) requires a cyber charter school applicant to include, in its application, the curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4. 24 P.S. §17-1747-A(1). In its application, Achievement House stated that it would use the Plato curriculum and provided a sample of what it expected to use. (App., p. 5; Appendix A). Achievement House further stated, in its application, that Plato Learning, Inc. attests that its curriculum meets the Pennsylvania standards but Achievement House believes there are some areas that may need support and that its teachers will review the entire curriculum in their area and make adjustments necessary to meet standards. (App. Addendum, pp. 7-8). Although the

Department would have preferred to know that Achievement House could verify that the entire curriculum meets Pennsylvania standards, it is satisfied that Achievement House is committed to supplementing the Plato curriculum, as necessary.

However, at the December 16 hearing, Achievement House representatives stated that Class.com would also be used as a curriculum at the cyber charter school. (N.T. at 5). Achievement House did not provide any samples of this curriculum or evidence that it meets Pennsylvania standards. Without being provided more information about the Class.com curriculum, the Department is unable to determine if this curriculum meets Pennsylvania standards. 24 P.S. §17-1747-A(1). Without being provided more information about the Class.com curriculum, the Department is also unable to determine how technology would be used with the Class.com curriculum and how technology would be used to provide instruction. Finally, it was not clear if Achievement House would use the Plato and Class.com curriculums together or if one would be the primary curriculum with the other being supplementary.

Therefore, the Department finds that Achievement House failed to meet the requirements of Section 1747-A(1).

Measurable Academic Goals

The cyber charter school application required Achievement House to state the school's measurable academic goals and objectives to promote student learning. Achievement House stated, in its application, that the school's academic goals and objectives are: (1) to provide college preparatory courses of study; (2) to have the students proceed at their own rate; and, (3) to expect the students to master the material by requiring an 80% performance to proceed to the next unit of learning. (App., p. 4).

These academic goals and objectives are general and very limited and do not provide the Department with information about how the goals will be measured. Although Achievement House will require 80% performance to proceed to the next unit of learning, the academic goals need to be more specific and provide clear measurable goals with objectives for building the educational program that reflects a commitment to academic excellence for all students.

Therefore, the Department finds that Achievement House failed to fully identify clear measurable academic goals and objectives.

Transportation

Achievement House will require that students attend the physical location of the cyber charter school at least one day per week. (App., p. 12; Addendum, pp. 8, 11, 18; N.T. at 7-8, 28). Therefore, unlike most cyber charter schools, students who attend Achievement House will have transportation needs. The CSL sets forth the requirements of school districts to provide transportation for its resident students to charter schools. 24 P.S. §17-1726-A, *as amended*. However, pursuant to Section 1749-A of the CSL, cyber charter schools are not subject to Section 1726-A. Therefore, Achievement House cannot require school districts to provide transportation to students attending Achievement House.

Model for Other Public Schools

Because Achievement House failed to meet many of the requirements of the CSL, as set forth above, the Department finds that Achievement House would not serve as a model for other public schools. Achievement House failed to provide the Department with sufficient information to, *inter alia*, demonstrate sustainable support for the school, or to demonstrate that all of the curriculum it expects to use meets Pennsylvania standards, and that it is an independent, public non-profit corporation.

Based on all of the above, the Pennsylvania Department of Education denies the grant of a charter, at this time, to Achievement House Charter School. Pursuant to the CSL, Achievement House may revise and resubmit its application to the Department or it may appeal this decision to the Charter School Appeal Board.

Pennsylvania Department of Education

Thomas R. Winters
Acting Secretary