

## DEPARTMENT OF EDUCATION

**In Re: The Proposed Carolyn Walker Daniels     :**  
**Cyber Charter School                         :**       **2007**  
**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 1, 2007, the proposed Carolyn Walker Daniels Cyber Charter School (“CWDCCS”) 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 6, 2007.
- At the hearing, CWDCCS presented the Department with information about its application. Department personnel who had reviewed the application also posed questions to CWDCCS’s representatives.

## Conclusions of Law

On October 1, 2007, the proposed Carolyn Walker Daniels Cyber 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.

### *Conclusions*

- **Information provided on the Board of Directors was conflicting and incomplete.**
- **CWDCCS failed to provide supporting details or other creditable information on how it arrived at its enrollment projections used to determine budgeted revenue.**
- **CWDCCS failed to provide sufficient information about the ownership of the facilities and leasing arrangements.**
- **The financial and budget information provided in CWDCCS's application and attachments were determined to be inaccurate, inconsistent and incomplete**
- **The application contains no detailed evidence of insurability, the costs of coverages, or levels of protection.**
- **CWDCCS failed to explain how it would provide health care and life insurance benefits to its employees that are the same as the employees would be provided if they were employees of the local school district in which the charter school is located.**
- **CWDCCS did not provide a complete description of its educational program that clearly describes content in all subject areas.**
- **There are numerous concerns with the uses of technology and technology policy as described in CWDCCS's application.**
- **The application submitted by CWDCCS failed to substantively detail how it will meet its obligation to provide special education programs and services to students with disabilities and failed to address key areas of special education policy and procedure.**

- **CWDCCS did not state all the content curriculum goals in measurable terms.**
- **CWDCCS did not have a Curriculum Content Framework section with any specificity. The Academic Standards were not definitely aligned.**
- **CWDCCS did not demonstrate or show specific lessons from each content area from Aventa Learning.**
- **CWDCCS did not develop an adequate plan for the assessment of learning needs.**
- **CWDCCS has a completely reversed diagram of benchmarks and a chart for World Language Learning.**
- **CWDCCS failed to demonstrate sustainable support for the cyber charter school plan by teachers, parents or guardians and students.**
- **CWDCCS failed to provide Articles of Incorporation.**
- **The application contains inaccurate information.**
- **It is not clear that a cyber charter school is the best approach to meet the needs of the students the school intends to instruct.**
- **CWDCCS will face a very difficult challenge in meeting the requirements of No Child Left Behind’s measure of Adequate Yearly Progress.**
- **CWDCCS should use state requirements for their baseline, not the average of the schools in the area.**

### Discussion

#### Summary of the Proposed Carolyn Walker Daniels Cyber Charter School

- Carolyn Walker Daniels Cyber Charter School (CWDCCS) proposes to enroll students in grades 9-12
- The administrative headquarters for the proposed cyber charter school will be in the City and County of Philadelphia, Pennsylvania
- The maximum projected student enrollment for year one is 600, increasing to 1200 by year five
- CWDCCS intends to enroll students from all 501 Pennsylvania School Districts
- Innovative features of the CWDCCS program include year-round instruction, TIP (tailored individualized program) and the inclusion of Cyber Pods

### ***Finance and Budget***

In its application, CWDCCS states that a nine-member board will manage the school. However, the draft of the by-laws provided in Appendix I states that there will be seven-member board. CWDCCS provided the names and addresses of seven board members and referenced Appendix J as containing their resumes. Appendix J only contained resumes for 5 of the 7 board members listed as well as a resume of Mr. Ronald Daniels, the founder of the school.

CWDCCS failed to provide supporting details or other creditable information on how it arrived at its enrollment projections used to determine budgeted revenue. The estimated enrollment numbers are a critical component of CWDCCS's financial plan and evaluating their reasonableness is instrumental to assessing fiscal viability.

The Financial Budget provided in Appendix/ Attachment K is based on achieving 100% of its projected enrollments over 5 years. In year 1 it projects 600 students (300 in 9<sup>th</sup> grade and 300 in 10<sup>th</sup> grade). In year 2 it projects 900 students (300 students in each of the grades: 9, 10 and 11). In years 3 through 5 it projects 1,200 students for grades 9 through 12. Achieving enrollment amounts less than projected could result in significant deficits affecting the financial stability of the school. Based on the per student variable costs identified in the assumptions, a moderate shortfall of student enrollments would result in an operating deficit. The financial plan does not address this possibility or project having any excess revenues available to fund potential deficits.

CWDCCS's application does not provide detailed information about identifying and acquiring space for the proposed Cyber Pods. The assumptions contained in the financial budget (Appendix/Attachment K) indicated that the budgeted amounts for Cyber Pods' Rent and

Maintenance were an “Estimate” and offered no other information or explanation of the budgeted costs that began at \$40,320 in the first year for Rent and Maintenance, and then increased to \$168,000 in the last three budgeted years.

In addition, Data Friendly, Inc. owns and operates the facilities to be used by CWDCCS, which are Data Friendly, Inc.’s corporate facility and the Carolyn Walker Daniels Center. The application indicates that the facilities would be provided rent-free for the first three years but does not provide any details on the leasing arrangements or any associated costs of renting, using and maintaining this facility in the fourth and subsequent years.

There is inaccurate, inconsistent and incomplete financial and budget information as indicated in the following observations:

(a) On page 72 of the application, CWDCCS identified 35 Administrative, Instructional and Support employees that would be on the payroll during the first year. However, the Department’s analysis of the CWDCCS’s Budget discovered 65 employees or 86% more than stated in the application. The Budget also includes 7 position titles not identified in the application.

(b) CWDCCS’s Financial Budget provided in Appendix/Attachment K inconsistently presents years 2008 through 2012 for the summary and revenue, but presents cost information under headings identified for years 2007 through 2011.

(c) There are many instances where the projected line items of costs were inconsistent with the Budget Assumptions. Most frequently, the last two years projections

contained values which had no discernable correlation to the first 3 years and were not explained in the assumptions.

(d) CWDCS inappropriately included \$20,000 for the first year of operation under the Instructional category with the Assumption that reads: “Assume 3% annual salary increase for all instructional staff”. The insertion of this 3% annual increase in the first year of operation is irrational.

(e) Total Personnel costs for each year incorrectly included non-monetary complement numbers in the financial totals presented in the Budget causing errors and an overstatement of personnel costs.

(f) Certain positions have been unrealistically budgeted. CWDCS budgeted \$50,000 a year for an Instructional secretary and \$35,000 a year for each clerical staff position. During the same budgeted time, CWDCS only budgeted \$40,000 a year for each of the following professional positions: Cyber Teachers, Special Education Teachers, Technology Coordinator and Curriculum Coordinator.

(g) The first year’s budget includes \$50,000 for overtime with succeeding years’ overtime figures including a 10% increase each year with no explanations of the need for overtime or the positions to which it applied.

(h) The application did not contain enough information to determine if Internet Service/Access was realistically or accurately budgeted. It appears in two places in the Budget. “Internet Service” for the General Office has been budgeted at the rate \$5 per student based upon student projections, with the first year’s amount being \$36,000. “Internet Access” also appears

under the category – Student Homes. Inexplicably, the first year is blank. In the second year, the value is \$237,025 and is blank again in the third year. The fourth and fifth years had \$162,000 and 139,723, respectively. As a result, budgeted Internet Service/Access costs fluctuate dramatically from year one’s projection of \$36,000 to year two’s projection of \$291,025 (a 708% increase) to year three’s projection of only \$72,000 to year four’s projection of \$234,000 and finally to year five’s projection of \$211,723, without explanations.

(i) CWDCS has budgeted from \$120,000 to \$240,000 in its 5 year Budget for “Bussing/Tokens” based upon its Assumption of “\$5/child/week x 40 weeks”. In accordance with Basic Education Circulars for Cyber Charter Schools, 24 P.S. §17-1741-A, cyber charter school students are not required to attend a specific facility to receive their educational services; therefore, the Charter School Law does not require that a student’s school district of residence provide transportation for cyber charter school students. Should transportation be required as a related service in the IEP of a student with disabilities, who is enrolled in a cyber charter school, the cyber charter school must provide the required transportation. It is not clear how the budgeted amounts were determined and whether these are anticipated transportation costs as related services to students with disabilities every student every day or are transportation costs for all students.

(j) CWDCS budget includes amounts for “Student Lunch” based upon its Assumption of “\$8 per student per week x 40 weeks”. These budgeted costs indicate CWDCS students will travel every scheduled school day and receive a lunch. In addition, computers and peripheral equipment will be purchased for use in every student’s home, while simultaneously leasing computers, audio/visual equipment and furniture for every student at their assigned Cyber Pod. Both of these budgeted costs imply some expectation or program requirement for

them to attend a Cyber Pod every scheduled day of the school calendar. The application does not address how statewide open enrollment students outside the urban West Philadelphia will be able to receive a comparable education.

(k) No documentation or detailed explanations were provided to support how the budgeted amounts were determined and exactly what services and the extent of services that would be rendered for the following contracted services specified in the budget:

1. Legal services,
2. Business services,
3. Nutritionists,
4. Nursing,
5. Custodial Services,
6. Technical Consulting,
7. Consultant Services for Professional Development, PDE Reports, Business Affairs and also special services if needed,
8. Professional Development,
9. Web and Software Development,
10. Equipment maintenance for PC's, copiers, (Budget Assumption for this item was not completed)
11. Cellular phone service,
12. Internet access,
13. School lunches (starting at \$192,000/year and growing to \$384,000/ year),
14. Administrative Computers,
15. Administrative Copiers/Fax Machines,
16. Administrative File Servers, and
17. Administrative Audio/Visual Equipment.

(l) Detailed information on the leasing arrangements for Cyber Pods were not included in the application other than including an amount for rent in the budget.

(m) The application only generally states that the Board of Trustees will develop an insurance coverage plan that will comply with the charter school legislation. In the Budget under Property Services for Administrative Insurance, CWDCCS has projected \$1,200 annually for all 5 years without any description of what was being insured. Annual Cyber Pod Insurance was

projected at an “Estimate of \$49 per child” with year one’s estimate at \$29,400 and years’ three, four and five’s estimate at \$58,800. However, year two’s estimate was understated by \$29,742 based upon CWDCCS’s assumption for Cyber Pod Insurance.

(n) The application states that health benefits would be commensurate with those offered employees at other charter schools. The amounts budgeted under the “Benefits and Related” cost categories were based on an estimated percentage of total salaries rather than on realistic cost estimates. The information does not indicate if the state share of PSERS and FICA were considered in the amounts budgeted. Insufficient details prevented any evaluation of the reasonableness of the cost estimates.

(o) The curriculum content on pages 14 through 16 identifies subject areas for students in grades 9-12 and refers to Appendix A for detailed course descriptions. Appendix A did not contain all of the detailed course descriptions identified in the curriculum content pages.

### ***Technology***

There is no indication what uses of technology will be performed at cyber pods that can’t be done at home. There is no indication what videoconference equipment will be included for students because it is not indicated in the proposal for students but it is listed for administrators and teachers.

CWDCCS has not indicated what technology training will be provided for parents and students, who will provide the training and what criteria will be used to determine the levels of technology training. CWDCCS has not provided evidence of academic goals that measure student technology proficiency so there is a question about how students will master proficiency in information literacy. In addition, there is no indication of the technology skills that will be required of teachers and staff. CWDCCS has not provided evidence of additional training for

staff beyond an initial two days of training, and there is no evidence about the type of training teachers will receive on the software applications, educational components and communications.

CWDCCS has not provided information about how PowerSchool was identified as the Student Information System for the school or what criteria was used to make this determination.

CWDCCS has not identified what is included in its proposed technology plan.

There is no indication that there will be technical support after 5:00 p.m.

It is not clear why CWDCCS looks to adhere to the Philadelphia School District's approved Technology plan. CWDCCS needs to create its own Authorized User Policy and not adhere to another LEA's policy. There is also no indication whether an Acceptable Use Policy is required of staff and administrators.

CWDCCS has not provided information about how technical support will be provided to students at home. It only lists onsite assistance to Cyber Pods.

CWDCCS's technology equipment is poorly limited in the scope of services for students and the equipment is not truly compatible with today's technology (lower hard drive size and CD speed). The hardware specifications are based on Aventa minimum specifications but seem too low for today's uses beyond online learning system. Software titles reference products that are outdated compared to the latest versions.

The budget indicates that the Technology Coordinator is a part-time position while the narrative in the Technology Support section under School Design states that the Technology Coordinator will be full-time.

There is no evidence that CWDCCS is applying for the E-Rate discount for telecommunications and Internet costs.

CWDCCS stated that the Chief Technology Officer would be the overall administrator and the Technology Coordinator would implement the system. When asked why there was a drastic reduction in salaries for both of these positions in years four and five, CWDCCS stated that the wrong budget was submitted for the Department's review. There is no indication of what is included in the web and software development costs that are in the budget and there is no evidence about why the budget is doubled for this line item in years two and four.

### ***Special Education***

CWDCCS's application is, in general, a restatement of special education law. It does not detail in any significant way that CWDCCS understands the various aspects of special education or how it will execute its duty in the cyber environment. Although CWDCCS proposes to operate grades 9-12, it does not discuss in any detail its transition program. CWDCCS lists various adaptations that will be used in special education; however, the adaptations are not tied to any policy, procedures or structure. During the hearing the CWDCCS representative stated that CWDCCS would have a team that would handle its duty under Child Find; however, the representative was not able to provide additional information on the roles key people would play. CWDCCS submitted the wrong budget to the Department making it impossible to assess the school's allocation and planning for special education and related services.

### ***Curriculum***

In the application, CWDCCS stated measurable goals only for the PSSA tested content areas (Mathematics and Reading, Writing, Listening and Speaking, Science and Social Studies) and these are weak measurable goals. Goals for all content areas should be written in measurable terms with specific data collection strategies identified to determine success rates.

The Curriculum Content Framework submitted in the application was simply a "cut and paste" from the Department's Website and the Table of Contents of each content areas' Academic Standards. Various unit or lesson examples from each content area must be aligned with Pennsylvania's Academic Standards for each content area. CWDCCS presented weak, minimal alignment in Appendix I with only Titles of Lessons and no lesson content.

An assessment instrument (tool) for all content areas should be selected so that CWDCCS can successfully measure each individual student's needs upon admission and show a growth (measurable numerically) after one year's consistent instruction, then after two years and so on.

The CWDCCS staff needs technical assistance in setting Benchmarks for World Languages that are patterned after the National American Council of Teachers of Foreign Languages (ACTFL) Performance Standards. These ACTFL Benchmarks and Assessment Standards are also used by the Department's Bureau of Teaching and Learning in the Proposed Pennsylvania Academic Standards for World Languages.

### ***Legal***

“[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. To demonstrate sustainable support, CWDCCS included in its application letters from two legislators, a letter from a Philadelphia councilwoman, five letters from various business or nonprofit owners and one letter from an assistant professor at Drexel University. The five business and nonprofit owners are also listed as founders of the CWDCCS. The letter from the assistant professor at Drexel University is a letter from 2006 when the assistant professor was listed as a founder.

In addition to these letters, the application contains the signatures of forty-two people indicating support for the CWDCCS and one Application of Intent. The forty-two signatures are the same signatures provided in the 2006 application.

Thus, the only difference between the 2006 application and the 2007 application, in terms of demonstrated sustainable support, is the addition of letters from two legislators, a letter from one councilwoman, one Application of Intent, and five letters from founders. One of the reasons

for denying a charter to the CWDCCS in 2006 was the lack of demonstrated sustainable support. Nothing has been provided in the current application that would change that conclusion. The addition of letters from founders and from a couple of legislators and a councilwoman does not demonstrate sustainable support.

A cyber charter must be organized as a public, nonprofit corporation and must be an independent public school. 24 P.S. §17-1703-A. In order for the Department to verify that the CWDCCS is a public, nonprofit corporation and an independent public school, a copy of its Articles of Incorporation must be submitted with the application. Not only does the application ask the applicant to provide a copy of the cyber charter school's Articles of Incorporation, this requirement is implicit in the Pennsylvania Supreme Court's decision in *West Chester Area School District v. Collegium Charter School, et al.*, 571 Pa. 503, 812 A.2d 1172 (2002). In *Collegium*, the Court denied one of the school district's claims because Collegium's articles of incorporation established that it was organized as a nonprofit corporation under Pennsylvania law. *Collegium*, 571 Pa. at 524, 812 A.2d at 1185

It is imperative that the Articles of Incorporation be included in the application so the Department is certain that the CWDCCS is an independent nonprofit corporation and that it is not the subsidiary of another entity. The CWDCCS did not provide a copy of its Articles of Incorporation.

In explaining why the site chosen for the CWDCCS was suitable, it is stated in the application that the facility has sufficient space "for expansion to accommodate the residential needs of some of our anticipated student population." When asked about this reference to residential needs of students, the representatives of the CWDCCS stated that this was inaccurate and should not have been in the application.

In discussing how the CWDCCS would meet the needs of its students with disabilities there are various places in the application where it is stated that parents would be referred to the Intermediate Unit (“IU”). For example, if a parent needed more information about the purpose, time and location of screening activities, or wanted to request a Multidisciplinary Evaluation, the application states that the parent should contact the Special Education Contact at the local IU. When asked at the hearing why the IU would be contacted for this information, the representatives stated that references to the IU were not correct.

Having such incorrect information in the application, in addition to other weaknesses in the application, evidences that the CWDCCS is not adequately prepared, in terms of support and planning, to provide comprehensive learning experiences to students.

### ***Accountability***

On the front cover of CWDCCS’s application, William Milliken is quoted as “It is relationships—not programs—that change children.” Additionally, the overarching vision of CWDCCS addresses relationships and social skills. How does one learn social skills by sitting behind his or her computer? It is not clear that a cyber charter school is the best vehicle to create relationships or master social skills. Although not disagreeing with CWDCCS’s contention that a “strong body of research indicates that the kind of self-paced, computer-assisted instruction...can more effectively meet the needs...,” (even though it is not indicated from where the research came), the Department is not convinced that for CWDCCS to meet its overarching vision that cyber instruction would be as effective as providing the instruction in a central location as a brick and mortar charter school.

CWDCCS’s targeted students are those who have not experienced success in a traditional public school setting. These are already the students who have demonstrated that they are not

the highest performers. Short of miraculous instruction/intervention that causes this student population to improve significantly, this school will be identified as being in School Improvement 1 status within two years. It is not clear that CWDCCS is prepared to deal with the consequences and sanctions associated with Improvement or Corrective Action status. CWDCCS acknowledged that it would cater to students who were lagging in their educational progress and spoke of providing functional skills, but Pennsylvania's standards far exceed functional skills.

The intent of *any* school should be to ensure that students are meeting Pennsylvania's academic content standards. The baseline should be the minimum performance standard, and the goal should be annual improvement. Though CWDCCS has articulated goals for improvement, they are based on a standard that is probably lower than the state's performance standard. CWDCCS should not worry about comparing itself to other schools; it should be concerned only with ensuring that its students become at least Proficient in the academic content standards.

**Therefore, for the reasons stated above, the cyber charter school application for the Carolyn Walker Daniels Cyber Charter School is denied.**

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Diane Castelbuono  
Deputy Secretary  
Office of Elementary & Secondary Education

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Date