

DEPARTMENT OF EDUCATION

In Re: The Proposed Career Insight Cyber Charter School Cyber Charter School Application : 2006

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 2, 2005¹, The Career Insight Charter School (“CICSP”) 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 4, 2006.
- At the hearing, CICSP presented the Department with information about its application. Department personnel who had reviewed the application also posed questions to CICSP representatives.

¹ The application was timely filed on October 2, 2006 because October 1, 2006 was a Sunday.

Conclusions of Law

Background

On October 2, 2006, CICSP 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

- **CICSP failed to adequately identify academic units, multiple learning styles and authentication of student work. 24 P.S. §§17-1747-A(1), (12).**

- **CICSP failed to adequately explain how it would effectively provide appropriate curriculum and supports to English Language Learners (“ELLs”).**
- **CICSP failed to identify facilities for extracurricular activities that would be available to all students throughout the Commonwealth and CICSP failed to offer equal access to its proposed facilities-based services statewide.**
- **CICSP failed to offer a realistic plan to recruit the student demographic it intends to enroll.**
- **CICSP failed to provide the location of its administrative office. 24 P.S. §17-1719-A(11); §17-1743-A(h); §17-1747-A(16).**
- **CICSP’s application failed to contain a final management agreement between CICSP and Insight Schools, Inc. See, *School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Cmwlth. 2001).**
- **A majority of CICSP’s Board of Trustees are also members of the Boys & Girls Club of Western Pennsylvania, which raises serious concerns about potential conflicts of interest and is not in compliance with the intent of the Charter School Law (“CSL”) that a cyber charter school be an independent public school. Further, CICSP’s application allows for compensation of Board members, which is a violation of law. 24 P.S. §17-1749-A(a)(1); 24 P.S. §3-321.**
- **CICSP’ teachers appear to be employees of Insight Schools, which is in violation of law. See, *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 468 (Pa. Commw. Ct. 2000), *aff’d*, 571 Pa. 503, 812 A.2d 1172 (2002); see also *School District of the City of York v. Lincoln-Edison Charter School*, 798 A.2d 295 (Pa. Commw. Ct. 2002).**
- **The proposed CICSP Bylaws are actually the Proposed Bylaws for the Career Connections Charter Middle School of the Boys and Girls Club of Western Pennsylvania.**
- **CICSP failed to file articles of incorporation with the Pennsylvania Department of State.**
- **CICSP failed to substantively detail how it will meet its obligation to provide special education programs and services to students with disabilities. 24 P.S. §17-1747-A(13).**

- **CICSP failed to meet the requirements that it provide a financial plan for the proposed cyber charter school. 24 P.S. §17-1719-A(9).**
- **CICSP failed to meet the requirements of section 1747-A when it failed to provide an adequate description of the technical support that would be available to students and parents, failed to demonstrate comprehensive training in technology proficiency for staff, and failed to provide free Internet service to students. 24 P.S. §17-1743-A(e); §17-1747-A(9); §17-1719-A(13).**
- **CICSP notes that dual credit courses will be offered but does not explain what that means.**

Discussion

Summary of the Proposed Career Insight Charter School of Pennsylvania (CICSP)

- Proposes to enroll students from all 501 school districts
- The proposed cyber charter school will have its primary administrative office in Pittsburgh
- CICSP proposes to enroll students in grades 9-12 only
- CICSP proposes to enroll 400 students in year one of operation, increasing to 2000 by year five
- CICSP founding coalition is led by the Boys and Girls Clubs of Western Pennsylvania

Curriculum

The application does not specify provisions for English Language Learners. There are many requirements under NCLB. These include the home language survey, planning for the program, selecting a core ESL curriculum, identification and

assessment of students, programming for students, tracking of student proficiency levels, exiting students from the program, and maintenance of the database of Primary Home Language Other Than English (PHLOTE) students. Generally speaking, CICSP appears unprepared to meet the needs or legal requirements of this population.

The units in different disciplines included in Appendix B are nothing more than lists of topics and objectives that nominally address the Pennsylvania Academic Standards. Missing are narrative descriptions of what the course means to students and what overarching principles, knowledge and skills students can expect to gain from the course.

CICSP declares that its courses “speak to the multiple learning styles” of its students. It claims to address the preferences of “audio, visual, and kinesthetic” learners, which, given digital technological advances, is conceivable. However, no real examples of how curricular design may meet these preferences is offered. There is mention in the application of “organized group sports” and journal keeping as ways of demonstrating mastery of skills and health rules. This may present a challenge in ensuring there is no fabrication.

One of the great strengths of the CICSP is in the Individual Student Learning Plan (ISLP). Each student is to have one developed by the Support Team that is to be aligned with Pennsylvania Academic Standards and receive weekly monitoring. On paper, it is an impressive plan to get away from the traditional one-way approach of many schools and focus on the needs of each student. Realistically, the question is whether the staff will have the time and wherewithal

to meet the strenuous demands of developing and implementing the ISLPs, particularly with a projected student population of 2000 by the 2011-2012 academic season. See also Appendix B

CICSP will offer participation in athletics, publications and organizations at Boys and Girls Clubs facilities, but where there are no such facilities, it will “partner with another regional non-profit organization to facilitate these services.” Given the largely rural nature of the Commonwealth, it is difficult to visualize how this situation will work with students in remote, sparsely populated areas. CICSP plans to use the arrangement for “academic” and “social development” activities. On the next page of the proposal, CICSP admits that it has “not yet pursued resident district extracurricular partnerships.”

CICSP is correct in asserting that “online learning requires a new breed of instructor,” but it does not really offer what the “thorough training” is for successful candidates. Upon what theories of teaching and learning is the training based? Are there recognized and accepted methods for online instruction? How does the online instruction fit into a horizontal collaborative model of education?

Dual Enrollment

CICSP states in its application that it will offer dual credit courses but does not explain what that means. The Department assumes this is referring to dual enrollment agreements with post-secondary institutions by which students would receive both high school and college credits. However, the Department has stated in a published Basic Education Circular that charter schools may not contract with

post-secondary institutions to provide dual enrollment credits to its students. Charter schools may only purchase college courses from a post-secondary institution to use as part of a charter school's curriculum for which students would be awarded high school credit. *See Cyber Charter School Basic Education Circular.*

Projected Student Demographic

The founding coalition believes that the majority of the students who will be interested in attending are students not currently enrolled in the PA public school system. It seems unrealistic that of the 400 students projected for the first year, the majority will either be public school dropouts or students never enrolled in the public school system. In Appendix N, Community Perception Survey Report, there is no strong response to the question about the interest from students who have dropped out of high school.

Facilities Based Services

In its application, CICSP states that it will offer programs that will provide face-to-face services with an academic, social and community focus. Some of these services are part of the academic program, some are part of the "school day" and some are after- school services. These programs are to be offered in partnership with the Boys and Girls Club of Western Pennsylvania. However, it is not clear that these opportunities will be offered at various facilities throughout the state wherever enrolled students live. Since cyber charter schools are statewide entities, CICSP would have to provide equal services to all students who are enrolled in CICSP no matter where they reside in the Commonwealth.

This is particularly true because some of the services are part of the academic program.

Facility

CICSP does not have a location for its administrative offices. The CSL requires that an applicant provide the addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements” In addition, a cyber charter school must maintain an administrative office where all records shall be maintained at all times. 24 P.S. §17-1747-A(16); §17-1743-A(h). Without having a location for its administrative offices, CICSP has failed to meet this requirement of the CSL.

Management Agreement

The Boys & Girls Club of Western Pennsylvania partnered with Insight Schools, Inc. (“Insight”) to create CICSP . The application states that Insight is an education management organization (“EMO”) that contributes startup capital, online courses, instructional management and training programs, operating systems and school administration. A Management Agreement Summary (the “Summary”) was provided with the application. However, if Insight or any other management company is being contracted with to provide management services to CICSP , the application must contain a copy of the final management agreement between the entities. *See, School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Cmwlth. 2001).

In addition, the Summary states that during the first year, students will be enrolled from Western Pennsylvania, in the region serviced by the Boys & Girls

Club, plus one or more other locations elsewhere in the Commonwealth.

Enrollment of students cannot be limited to particular areas of the state. “All resident children in this Commonwealth qualify for admission to a charter school . . .” 24. P.S. §17-1723-A(a). Thus, CICSP cannot limit its enrollment as stated in the Summary.

The Summary also states that CICSP may enroll students on a full-time basis, or subject to appropriate financial arrangements, on a part-time basis. This is not appropriate. Students enrolling in a cyber charter school are enrolled on a full-time basis and the cyber charter school is responsible for providing each student with complete and appropriate educational services.

Board of Trustees

The Board of Trustees is to be selected and appointed by the Executive Committee of the Board of Directors of the Boys & Girls Club of Western Pennsylvania. Five of the Board members will be individuals who are also Board Members of the Boys & Girls Club of Western Pennsylvania. Business executives, community leaders, an instructor and one parent will be appointed for the remaining four seats.

Having the majority of CICSP Board of Trustees also being members of the Board of Directors of the Boys & Girls Club of Western Pennsylvania creates a significant potential for conflicts of interest to arise. In addition, this arrangement does not conform to the CSL ’s intent that a cyber charter school be an “independent” public school because, in essence, the Boys & Girls Club has ultimate authority over CICS.

In addition, CICSP described an Executive Committee that is an operational committee to discuss policy questions and operational issues so that not all issues must be taken to the Board of Trustees. The Executive Committee makes recommendations to the Board of Trustees, which CICSP stated at the hearing, makes the decisions. The Executive Committee consists of three members from Insight and two members from the Boys & Girls Club. The Department is again concerned about whether the Board of Trustees, which needs to be independent of other agencies, will have the ultimate authority at CICSP. A statement in the Summary that the Executive Committee will approve each fiscal year's budget exacerbates this concern. Final approval of the budget must be by the Board of Trustees.

Lastly, Appendix Q, page 20 of the application states, "A voting member of the Board or any committee ... who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation." Trustees may not be compensated for their work with the Board.

Teachers

In the Summary, it is stated that any and all costs associated with the employment of CICSP administrative personnel, teachers and independent contractors will be paid for by Insight. It is also stated that the Executive Director and the Executive Committee will make recommendations to Insight with respect

to hiring, dismissal, discipline and supervision of personnel and their employment terms.

Thus, it appears that teachers would be employees of Insight rather than employees of CICSP. This is not appropriate because the teachers must be employees of CICSP. *See, West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 468 (Pa. Commw. Ct. 2000), *aff'd*, 571 Pa. 503, 812 A.2d 1172 (2002); *see also School District of the City of York v. Lincoln-Edison Charter School*, 798 A.2d 295 (Pa. Commw. Ct. 2002). This also raises the issue of whether the Board of Trustees has ultimate control of CICSP.

Pursuant to the CSL, CICSP Board of Trustees has the authority to decide matters related to the operation of the school, including the curriculum, and has the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter. 24 P.S. § 17-1716-A. In addition, the CSL provides, "The board of trustees shall determine the level of compensation and all terms and conditions of employment of the staff . . ." 24 P.S. § 17-1724-A(a). CICSP proposal raises serious concerns about whether the Board of Trustees would have ultimate control of CICSP.

Bylaws

The Bylaws included with the application are the proposed bylaws for the Career Connections Charter Middle School of the Boys & Girls Club of Western Pennsylvania, rather than Career Insight Cyber Charter School. The Bylaws propose to have the Boys & Girls Club as the only member with full voting rights.

In addition, the Bylaws identify the member's powers to include, *inter alia*, the appointment of all of the Directors, the authority to remove any of the Directors, the authority to approve the President, Vice-Presidents, Secretary and Treasurer of the Board, and the authority to coordinate policy and long-range strategic and financial planning of CICSP.

The Bylaws again raise the Department's concerns about whether the Board of Trustees would have ultimate control of CICSP. CICSP must provide its own Bylaws and provide sufficient documentation that the Board of Trustees would have ultimate control of CICSP.

Articles of Incorporation

Although CICSP provided a draft copy of Articles of Incorporation, the Articles have not been filed with the Pennsylvania Department of State. The Department of Education has stated in previous decisions that the Articles of Incorporation must be filed with the Department of State and must be included with the application.

Special Education

The application submitted by the Boys and Girls Club fails to address in any significant detail how the school proposes to meet its duty to provide special education programs and services to students with disabilities. Special education is discussed specifically on pages 12-14 (see application). General terms and vague explanations are used throughout the narrative such as: "in accordance with Chapter 711...(pg. 12)", "in addition to the services and programs provided by state law...(pg. 13)", and "CICSP will follow IDEA and FERPA guidelines for

protecting and keeping confidential information related to the special needs of students...pg 14).

While these statements quote some of the general areas of state and federal law requirements, without any supporting policies or procedures, the Department is unable to determine if CICSP has more than a cursory understanding of how it intends to deliver special education in a cyber educational environment.

On pg. 13 of the application, the enrollment process is discussed and it states in part... “The enrollment counseling process has two intended outcomes: first, it is an educative process for students and families; it helps them become familiar with requirements and unique challenges that online learning could pose given the student’s needs. Second it allows the school to better understand the student’s needs and make adequate provision for servicing those needs.” During the hearing, the Boys & Girls Club stated that the admission and enrollment process are connected. After reading this section and based on the explanation at the hearing, it could give the impression that students may or may not be admitted or that the parent may or may not enroll the student based on the outcome of this session. In order to avoid any confusion, a clear policy on admission and enrollments would clarify the language used in the application.

During the hearing, the Boys & Girls club did answer some questions, which demonstrated that they were aware of some of the areas absent from the application; however, no supporting Appendix which detailed policies or procedures was included. In addition, the answers offered were general in nature to how the process

might work in a brick and mortar school, but did not address the unique structure of the cyber charter school environment.

Some of the key areas lacking include, but are not limited to: Referral/Child Find, Procedural Safeguards, Dispute Resolution, Training for Staff and, Interagency Agreements, Assistive Technology, and details of how CICSP plans to contract with service providers throughout the state and any potential commitments/partnerships it has secured.

Finance and Budget:

The adequacy, reasonableness or necessity of the budgeted amounts projected cannot be assessed. This is because CICSP projected budget lacks detail and there is no supporting documentation.

CICSP budget does not reflect any estimated special education expenditures. The target population is secondary grades 9 – 12 and the school projects 400 students in the first year, 800 in the second year, 1,200 in the third year, 1,700 in the fourth year, and 2,000 in the fifth year – (page 1).

Technology

CICSP reported that a Request for Proposals (RFP) was created for technology equipment but evidence of such a proposal was not presented.

There was no policy in CICSP application stating that Internet access cost would be fully covered by school. CICSP agrees to only allow for a stipend to cover Internet costs. In addition, Internet access is mostly for dial-up service. There is little or no emphasis placed on acquiring broadband access for students, especially since the content will be web-based. The budget does not include costs for broadband access to students.

There was no indication of a repair/replacement program for technology equipment. Nor were the technology proficiency levels required of instructors indicated.

Therefore, for the reasons stated above, the cyber charter school application for the Career Insights Cyber Charter School is denied.

Gerald L. Zahorchak, D. Ed
Secretary of Education

Date