

DEPARTMENT OF EDUCATION

In Re: Pennsylvania Distance Learning :
Charter School : 2004
Second Revised 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, 2002, Pennsylvania Distance & Electronic Learning Academy Charter School 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, Pennsylvania Distance & Electronic Learning Academy Charter School presented the Department with information about its application. Department personnel who had reviewed the application also posed questions to the charter school’s representatives.

On January 17, 2003, the Department denied the grant of a charter to Pennsylvania Distance & Electronic Learning Academy Charter School. The CSL allows an applicant who has been denied a charter the opportunity to revise and resubmit the application to the

Department. The Department must grant or deny the revised application within sixty days of receipt. 24 P.S. §17-1745-A(g). On July 30, 2003, Pennsylvania Distance & Electronic Learning Academy Charter School, now also identified as Pennsylvania Distance Learning Charter School (“PA Distance”), submitted its revised application to the Department. By Opinion and Order dated September 23, 2003, the Department denied the revised application.

On January 21, 2004, PA Distance submitted a second revised application to the Department. For the following reasons, the Department grants PA Distance a charter to operate a cyber charter school beginning in the 2004-2005 school year.

Findings of Fact

1. On October 1, 2002, PA Distance submitted to the Department an application to operate a cyber charter school.

2. After review of the application and a public hearing, the Department denied PA Distance’s application and set forth reasons for the denial. *Department’s January 17, 2003 Opinion and Order.*

3. On July 30, 2003, PA Distance submitted a revised application to the Department.

4. After review of the revised application, the Department denied PA Distance’s revised application and set forth the reasons for the denial. *Department’s September 23, 2003 Opinion and Order.*

5. On January 21, 2004, PA Distance submitted a second revised application to the Department.

6. In its second revised application, PA Distance provided copies of: (a) petitions signed in support of its cyber charter plan (19); (b) applications of parents who had pre-enrolled

their children (36); and, (c) names of parents who had begun the pre-enrollment process (92).

Second Revised Application, Pre-Enrollment Section.

7. PA Distance revised its management agreement with WHDL of Pennsylvania to clarify that PA Distance teachers will be employees of PA Distance and will participate in the Public School Employee's Retirement System. *Second Revised Application, Exhibit K.*

8. In its second revised application, PA Distance clarified that the entity to which a charter was to be granted is Pennsylvania Distance Learning Charter School, and not Pennsylvania Distance & Electronic Learning Academy Charter School. The Articles of Incorporation for Pennsylvania Distance Learning Charter School are part of the revised application. *Revised Application, Exhibit L.*

9. PA Distance corrected its web site to properly identify the entity as Pennsylvania Distance Learning Charter School, rather than Pennsylvania Distance & Electronic Learning Academy Charter School.

10. PA Distance revised its budget and financial projections to incorporate the number of teachers necessary to meet its stated student to teacher ratio and the number of additional staff needed for its operations. *Second Revised Application, Exhibit C.*

11. In its second revised application, PA Distance provided information to evidence that all students will have electronic educational offerings rather than just text-based offerings. *Second Revised Application, pgs. 8-15; 35-43.*

Conclusions of Law

1. The signed petitions of support, the applications of parents who had pre-enrolled their children and the list of parents who had begun the pre-enrollment process, together with PA

Distance's survey, demonstrate sustainable support for PA Distance. 24 P.S. §17-1745-A(f)(1)(i).

2. PA Distance has complied with applicable law that requires teachers to be employees of the cyber charter school, and has complied with the Charter School Law by having employees participate in the Public School Employee's Retirement System. *See, Collegium Charter School v. West Chester Area School District*, CAB No. 1999-9; *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452 (Pa. Commw. 2000); *School District of the City of York v. Lincoln-Edison Charter School*, 798 A.2d 295 (Pa. Commw. 2002); 24 P.S. §17-1724-A(c).

3. Clarification of the name of the entity seeking a charter and the entity's website meet the directive of the Department in its September 23, 2003 Opinion and Order.

4. PA Distance's revised budget and financial projections satisfactorily addressed the Department's concerns that PA Distance's projected budget did not include all staff identified in the body of the revised application. *Second Revised Application, Exhibit C*.

5. PA Distance satisfactorily addressed the Department's concerns that some students could select a totally text-based curriculum by extending electronic learning to kindergarten students so that the school has electronic offerings for all students - kindergarten through grade 12. *Second Revised Application, pgs. 8-15; 35-43*.

Discussion

Demonstrated Sustainable Support

PA Distance had previously provided the results of a telephone survey of 390 adult parents to demonstrate sustainable support for its cyber charter school plan. After a brief description of PA Distance's program, 73% of those surveyed allegedly felt the State Board of

Education should make PA Distance available to Pennsylvania parents. The Department found that the survey alone did not demonstrate sustainable support because there were no actual petitions or letters of support signed by parents, students or teachers.

In its second revised application, PA Distance provided copies of signed petitions of support (19), copies of pre-enrollment applications from parents (36), and a list of parents beginning the pre-enrollment process (92). The Department believes that this documentation, together with the survey results, demonstrates sustainable support for PA Distance.

Employees

The Management Agreement between PA Distance and WHDL submitted with PA Distance's revised application raised questions about whether teachers were to be employees of the management company, WHDL, or PA Distance. In its second revised application, PA Distance submitted a revised management agreement that clarifies that teachers will be employees of PA Distance, not WHDL. This complies with applicable law that requires teachers to be charter school employees and not employees of the management company. *See, Collegium Charter School v. West Chester Area School District*, CAB No. 1999-9; *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452 (Pa. Commw. 2000); *School District of the City of York v. Lincoln-Edison Charter School*, 798 A.2d 295 (Pa. Commw. 2002).

In addition, PA Distance has stated that teachers will participate in the Public School Employee's Retirement System. This also complies with applicable law. 24 P.S. §17-1724-A(c).

Articles of Incorporation

In its revised application, PA Distance used the names of Pennsylvania Distance Learning Charter School and Pennsylvania Distance & Electronic Learning Academy Charter

School interchangeably. The use of both names created confusion as to the true identity of the entity applying for a charter. PA Distance has now clarified that the entity applying for the charter is Pennsylvania Distance Learning Charter School. Articles of Incorporation for this non-profit corporation are part of the revised application. *See, Exhibit L.*

Website

As discussed in the previous section, PA Distance created confusion about the identity of the entity applying for a charter because of its use of two different names interchangeably. This confusion also existed on the website because of its reference to Pennsylvania Distance & Electronic Learning Academy Charter School. The website now identifies the entity as Pennsylvania Distance Learning Charter School, using the acronym PADELA. This satisfactorily addressed the Department's concerns.

Staff Requirements and Budget

In its revised application, PA Distance identified in the body of the Application that it would employ 20 staff and that the student to teacher ratio would be 76:1. However, the budget and financial projections did not include 20 staff members and the number of teachers included in the budget would not have met that stated student to teacher ratio.

In its second revised application, PA Distance revised its budget and financial projections to coincide with the number of projected staff. In its revision, PA Distance identified, and budgeted for, 7 master teachers and 2 special education teachers. This would provide a student to teacher ratio of 64:1 for regular education students and a 25:1 student to teacher ratio for special education students. The revised budget and financial projections satisfactorily addressed the Department's concerns in this area.

Educational Program

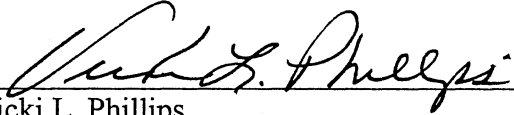
In its revised application, PA Distance required that kindergarten students use the Calvert curriculum and also made the Calvert curriculum available to students in grades one through eight. The problem the Department identified with the curriculum was that Calvert is a text-based curriculum and PA Distance had stated that a student's individualized learning plan might employ many technological means of education or none at all. Since PA Distance is applying to operate as a cyber charter school, it must use technology to provide a significant portion of its curriculum and to deliver a significant portion of instruction to students through the Internet or other electronic means. 24 P.S. §17-1703-A. PA Distance could not meet the requirements of a cyber charter school if it allowed students from kindergarten through grade eight the option of choosing the Calvert curriculum with no requirement for any technological means of education.

In its second revised application, PA Distance stated that it has extended Compass Learning's electronic curriculum to kindergarten students. In addition, students in grades one through eight who select the Calvert curriculum will actually select a blended curriculum composed partly of Calvert and partly of courses and educational resources delivered through the Internet and other electronic means. *Second Revised Application, pgs.8-15; 35-43*. These revisions meet the requirements of the Charter School Law. 24 P.S. §17-1703-A.

Conclusion

Based on Pennsylvania Distance Learning Charter School's second revised application, the Pennsylvania Department of Education grants PA Distance a charter to operate a cyber charter school beginning in the 2004-2005 school year.

Pennsylvania Department of Education



Vicki L. Phillips
Secretary

Date: 3/16/04