

DEPARTMENT OF EDUCATION

In Re: Pennsylvania Cyber Charter School :
Cyber Charter School Renewal : **2005**
Application :

Opinion and Order

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 renew or not renew the charter of a charter school that provides instruction through the Internet or other electronic means and was approved under section 1717-A or 1718-A of the CSL. 24 P.S. §1741-A (a)(2). The Department shall revoke or deny renewal of a charter under the provisions of section 1729-A. 24 P.S. §17-1741-A(a)(3). If the Department sends a notice of nonrenewal to the cyber charter school, it must hold a public hearing concerning the nonrenewal. 24 P.S. §17-1729-A(c).

Since a “renewal” application was not yet available, PA Cyber was required to use the cyber charter school application used by entities wanting to establish a new cyber charter school. Because the application was not tailored specifically to a renewal request, parts of the application sought information not related to a request for the renewal of a charter or had to be adapted to the renewal situation. The Department acknowledges the difficulty this presented to PA Cyber.

After reviewing PA Cyber’s renewal application, the Department of Education finds that it could renew PA Cyber’s charter if PA Cyber provides corrections and additional information regarding certain areas. The additional information and corrections sought by the Department

are to assure the Department that PA Cyber is fully complying with the provisions of the Charter School Law and that it is providing the best educational services possible to its students. Thus, PA Cyber must provide the Department with the requested additional information and make the required corrections on or before May __, 2005.

Required Corrections and Additional Information

Articles of Incorporation

A cyber charter applicant is required to provide a copy of its Articles of Incorporation in order to verify that it is a nonprofit public corporation. PA Cyber was named Western Pennsylvania Cyber Charter School when its original charter was granted. The cyber school has now changed its name to Pennsylvania Cyber Charter School. PA Cyber must provide a copy of the original Articles of Incorporation for Western Pennsylvania Cyber Charter School and any amendments to the Articles of Incorporation evidencing the name change. This is imperative so that the Department can issue a renewed charter to the correct nonprofit entity.

In addition, the renewal application must accurately reflect the changed name of the school. There are places where reference is still made to Western Pennsylvania Cyber Charter School, e.g., the Bylaws.

Goals and Objectives

The information provided in the renewal application pertaining to both academic and non-academic goals and how they will be measured are generic goals with no specific evidence as to how the goals will be measured. PA Cyber must provide goals and objectives that are outcome focused and measurable. In terms of the measurable aspect of the goals, PA Cyber needs to set up accountability measures to measure the quality of instruction provided and the

fact the instruction is aligned to standards. In addition, the goals must provide the school direction regarding increased student achievement.

An example of a possible outcome oriented goal is:

All students will receive high quality instruction and curriculum aligned to the state academic standards.

With this as the goal, the objectives might be to:

- Provide every student a core curriculum that aligns with state standards
- Provide every student with a personalized educational plan
- Provide in-depth and varied courses at various levels for all students

PA Cyber provided specific PSSA goals in its Annual Report for 2003-2004, which addresses the issue to some extent. However, specific goals that not only encompass PSSA but other measurable aspects of the education need to be a part of the school's goals.

Curriculum – Alignment to Academic Standards

Under the Charter School Law, a cyber charter school's application must provide "[t]he curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4." 24 P.S. §1747-A(1). Since the Department was not responsible for reviewing PA Cyber's original charter application, the Department does not know if the original application provided documentation that the curriculum meets academic standards. While PA Cyber states in the renewal application that its curriculum is aligned, the material presented is not specific enough to illustrate that alignment. It is not obvious in the renewal application that PA Cyber has explicitly linked standards and assessments with the Pennsylvania academic standards.

In addition, the Physical Education requirement for hours only is far below the standard for exercise and skill building that is the basis of Physical Education for Life. Virtual science labs also do not provide the same engagement as real hands-on investigations.

Thus, PA Cyber must provide specific material to illustrate that its curriculum and assessments are aligned to the Pennsylvania academic standards. It should also strongly consider upgrading its Physical Education requirements to include more than just a certain number of hours of activity. PA Cyber should also consider incorporating hands-on investigations for science labs rather than only using virtual science labs.

Kindergarten Age

PA Cyber notes on the Application Fact Sheet that the age of kindergarten students is age 5. However, this does not specify by what date the child must have reached the age of 5 in order to be admitted into the kindergarten program. Creating confusion is the fact the Bylaws state that the Board of Directors shall establish a program of education for students ages 4-21. *See*, Addendum O. The Application Fact Sheet also does not identify the age of beginners.

State regulations allow the minimum entry age to kindergarten to be not less than 4 years, no months, before the first day of the school term. 22 Pa. Code §11.14. In addition, the maximum entry age to kindergarten must be less than the entry age for beginners. The entry age for beginners may not be less than 5 years, 7 months before September 1, nor more than 6 years, no months, before the first day of the school term. 22 Pa. Code §11.15.

PA Cyber must clarify with specificity, the entry age to kindergarten and the entry age for beginners. These ages must comply with state regulations and must be consistent throughout PA Cyber's Renewal Application, including the Bylaws.

Printer Ink

In its renewal application, PA Cyber states that it does not provide consumable items to students, such as printer ink. *See*, Volume I, p. 22. In the Student Handbook, PA Cyber states it will not provide additional ink cartridges for printers and that parents/students are responsible for

purchasing replacements. *See*, Volume II, Appendix S. The Department has previously opined to cyber charter schools that they must provide printer ink for students. The CSL requires a cyber charter school to “provide all equipment, including, but not limited to, a computer, computer monitor and printer.” 24 P.S. §17-1743-A(e). This list of equipment that the cyber charter school must provide is not an exhaustive list. Common sense dictates that requiring a cyber charter school to provide a student with a printer also dictates that the printer is in working condition. If a printer does not have printer ink it is not in working condition, and therefore, would not meet the requirements of this section of the CSL. Therefore, based on the Department’s interpretation of Section 1743-A(e), PA Cyber is required to provide a printer to every student, which would include printer ink.

Academic Review Board Procedures

PA Cyber states in its Academic Review Board Procedure that it can remove a student for lack of academic performance. It appears by reading the entire procedure that “lack of academic performance” means failure to actually do any, or any significant, amount of academic work. However, the Department wants PA Cyber to verify that “lack of academic performance” does not mean students who are struggling academically. PA Cyber, as a public school, has the responsibility to educate its students, which may require extra assistance to those who may be struggling academically. Removal of students because they are struggling academically is not permitted.

In addition, in the Academic Board Review Procedures, sample letters to be sent to parents of students who are not making adequate progress in their assignments are included. In the Second Notification letter to be sent to the parents of a student who is not completing necessary work, PA Cyber states that an expulsion/truancy hearing will be scheduled if the

parent fails to contact the school within 5 days and that a truancy fine may result from the hearing. The Department acknowledges that it is important for the PA Cyber to carefully monitor student attendance in order to identify truant students. However, PA Cyber is to notify a student's school district of residence after the student accumulates 3 days of unexcused absences because it is the responsibility of the resident school district to pursue truancy charges. 24 P.S. §13-1333. Although PA Cyber may want to have a meeting with the parents and the student to try to get the student "back on track," truancy proceedings pursuant to section 1333 of the Public School Code are to be pursued by the student's school district of residence.

Dual Credit Program

PA Cyber has offered a dual credit program to its students, which allowed students to enroll in courses at Community Colleges and receive both high school and college credits for the courses. The Department conveyed to PA Cyber that it could not award college credits to students taking these courses. In response, Dr. Trombetta stated in correspondence¹ to the Department that PA Cyber would continue to purchase curriculum from colleges but would only offer high school credit for those courses.

Students Enrolled in PA Cyber Attending Other School Districts' Schools

The Department had been made aware of the situation where some Midland Borough resident students enrolled in PA Cyber but attended schools in the Western Beaver School District and the Beaver Area School District. The Department conveyed to PA Cyber that this was not permissible and was to be discontinued.

PA Cyber, through correspondence from Dr. Trombetta, has informed the Department that PA Cyber will no longer enroll Midland Borough students in PA Cyber and then send them to Western Beaver School District and Beaver Area School District. So that there is no

¹ This correspondence becomes part of the renewal application, which is part of the charter.

misunderstanding, the Department wants to make it clear that students enrolled in PA Cyber must receive their education through PA Cyber and may not attend any other school district schools.²

Previous Academic Performance

In the Student Handbook, PA Cyber states that a student must provide documentation of past academic performance prior to acceptance for enrollment at PA Cyber. PA Cyber also states in the Student Handbook that at the required face-to-face interview, prospective families must notify the interviewer of any extenuating circumstances that may affect enrollment eligibility. In addition, PA Cyber may ask the student to take a test battery when academic placement is uncertain. *See*, Volume VII, Appendix S.

The Department has concerns about PA Cyber's request for the above-noted information prior to acceptance into PA Cyber. PA Cyber cannot discriminate against enrolling students based on intellectual ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district. 24 P.S. §17-1723-A(b)(1). The request for past academic performance, notification of any extenuating circumstances that may affect enrollment and possible request to take a test battery raises questions about whether discrimination in the admission process is occurring, or will occur. PA Cyber must clarify for the Department the reason such information is requested prior to admission. The Department must be satisfied that requesting such information prior to admission is not being used to illegally discriminate against the enrollment of certain students.

² This does not mean PA Cyber cannot purchase some services from a school district so that students may receive some educational services from a school district. However, students enrolled in PA Cyber must receive the majority of their education through PA Cyber and cannot attend a school district school fulltime for educational services.

Conclusion

PA Cyber shall provide the Department with the required corrections and additional information requested above. The Department will timely review PA Cyber's submissions and, if the submissions satisfy the Department's requirements set forth above, renew PA Cyber's charter.

Pennsylvania Department of Education

Francis V. Barnes, Ph.D.
Secretary

Date: _____