



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

January 28, 2021

VIA CERTIFIED MAIL AND E-MAIL

Mr. Stephen J. Flavell
Executive Education Cyber Charter School
555 Union Boulevard
Allentown, PA 18109
sjflave@gmail.com

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Flavell:

After reviewing the Executive Education Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny the application. Please review the pages that follow for more information.

If you have any questions, please contact Randy Seely, Chief, Division of Charter Schools, at rseely@pa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Noe Ortega".

Noe Ortega
Acting Secretary of Education

Enclosure

cc: Adam A. Schott, Special Assistant to the Secretary
Pamela Smith, Executive Deputy Secretary
Sherri L. Smith, Advisor to the Deputy Secretary
Matthew S. Stem, Deputy Secretary for Elementary and Secondary Education

Background

Pursuant to the Charter School Law (“CSL”), 24 P.S. §§ 17-1701-A – 17-1751-A,¹ the Pennsylvania Department of Education (“Department”) has the authority and responsibility to receive, review, and act on applications for the establishment of cyber charter schools. A cyber charter school applicant must submit its application to the Department by October 1 of the school year preceding the school year in which the applicant proposes to commence operations. Following submission of an application, the Department is required to: 1) hold at least one public hearing on the application; and 2) grant or deny the application within 120 days of its receipt.

Executive Education Cyber Charter School (hereinafter referred to as “Executive Education” or “Applicant”) timely submitted an application to establish a cyber charter school (“Application”).² On October 3, 2020, the Department provided notice of a virtual public hearing for cyber charter school applications. In accordance with the public notice, the Department received numerous comments in opposition to the Application. The Department held a virtual public hearing for Executive Education’s application on November 12, 2020 (hereinafter referred to as “November 12 Hearing”).

Decision

The CSL, 24 P.S. § 17-1745-A(f)(1), requires the Department to evaluate a cyber charter school application against 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).

Based on a review of the written application, questions and responses recorded at the November 12 Hearing, and public comments concerning the application, the Department denies Executive Education’s application. While a single deficiency would be grounds for denial, the Department has identified deficiencies for every criterion. Discussion of the specific deficiencies follows.

¹ All statutory references shall be to the CSL unless otherwise noted.

² The Department received the Application on October 1, 2020.

Criterion 1: Executive Education provides minimal evidence of sustainable support for the cyber charter school plan by teachers, parents or guardians, and students.

With the potential to draw from a statewide catchment of students, cyber charters are uniquely positioned to satisfy the CSL requirements that charter school applicants demonstrate sustainable support from teachers, parents or guardians, and students. While Executive Education’s application includes several artifacts that purport to document such support, including a petition and form letters, there is little in the way of more robust evidence.

For example, the Applicant does not propose a faculty and identifies just five educators on its founding coalition—a fraction of the professional staff complement the Applicant proposes to field just six months from now (Application, pp. 4, 60-63). Similarly, the founding coalition includes five parents, a modest figure when weighed against the Applicant’s enrollment goals (Application, pp. 4-5).

The limitations of the founding coalition come into relief when its successor body—Executive Education’s proposed board of trustees—is evaluated. While the Applicant outlines a seven-member board at page 64 of the Application, a three-member board is proposed at page 67; it is unclear whether the latter is a step towards the former and, if so, whether a two-person quorum could dictate school affairs in the meantime.

Finally, as noted above, Executive Education includes 29 form letters plus seven original letters of support in its application. But more definitive measures of backing are absent, with no public comment in support of Executive Education received ahead of or during the Department’s November 12 Hearing. In contrast, eight original letters of opposition were submitted to the Department, with four of these commenters providing testimony during the hearing (Transcript, pp. 6-14, Exhibits 1-8).

Executive Education’s founding coalition does not segue into a representative, sustainable governing board, governing board plans are incomplete or at least internally inconsistent, and public comment concerning the application was unanimous in opposition. Accordingly, the Application is denied.

Criterion 2: Executive Education lacks the capability, in terms of both support and planning, to provide comprehensive learning experiences to students under the charter.

For this criterion, the Department evaluates evidence that the applicant can develop, implement, and sustain comprehensive learning experiences to students, and that the applicant’s board of trustees will hold real and substantial authority over staff (*Carbondale Area Sch. Dist. v. Fell Charter Sch.*, 829 A.2d 400 (Pa. Cmwlth. 2003); *Sch. Dist. of York v. Lincoln-Edison Charter Sch.*, 798 A.2d 295 (Pa. Cmwlth. 2002); *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131 (Pa. Cmwlth. 2001); and *West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 760 A.2d 452 (Pa. Cmwlth. 2000), *aff’d* 812 A.2d 1172 (Pa. 2002)). Executive Education fails to demonstrate this capacity in at least three key areas. Specific findings are as follows:

I. The Applicant fails to demonstrate insurability.

A cyber charter school applicant is required to submit a description of how it will provide adequate liability and other appropriate insurance for the proposed school, its employees, and the board of trustees (24 P.S. § 17-1719-A(17)); these submissions ensure basic protections for the school's stakeholders in the event of school closure and guard investments by Pennsylvania taxpayers.

While Executive Education indicates it plans to “secure adequate insurance coverage and . . . maintain such coverage throughout the Charter term in accordance with the laws of Pennsylvania” (Application, p. 71), the Applicant fails to include copies of certificates of insurance, nor does it reference any requests for proposals that would indicate such policies are forthcoming. Further, while the Application lists the types of insurance the school plans to procure and associated coverage goals for each, it does not include the required director and officers' liability coverage.

II. The Applicant fails to demonstrate necessary financial support and planning.

A cyber charter school applicant is required to draft a preliminary operating budget covering all projected sources of revenue. Revenue and expenditure estimates must be sufficient and reasonable to demonstrate the applicant's capability, regarding both financial support and planning, to provide comprehensive learning experiences for students. Budgets should be both complete and accurate, and the applicant should explain how it developed its revenue and expenditure estimates.

While Executive Education's application did include a budget, the Applicant fails to validate the assumptions underlying it. For instance, the Applicant provided conflicting information regarding whether several key federal revenue sources were included in the proposed budget. During the November 12 Hearing, when asked what assumptions were used to develop Individuals with Disabilities Education Act (IDEA) revenue estimates, a representative from Executive Education incorrectly stated, “we did not include any of that” (Transcript, p. 95). When informed that the proposed budget had, in fact, included IDEA revenue estimates, a representative responded “that must have been an oversight. I do not have backup for this” (Transcript, p. 95).³ Similarly, typical federal entitlement program funds, such as Title I and Title II, are excluded in the proposed budget, despite the Applicant indicating during the November 12 Hearing that it expected to receive them (Transcript, pp. 93, 95-96).

³ As another example of Executive Education's failure to adequately demonstrate use of reasonable budget estimates and assumptions, the School provided a vague response when asked during the November 12 Hearing how local tuition payment revenue and IDEA funds were calculated, stating: “We took in a handful of rural school districts, handful of urban school districts and a handful of suburban school districts from around the Commonwealth that had a range of student amounts. We used that as like an average for regular students and for special education students. So that's how we determined those rates. We utilized, like I said, demographic information to determine the amount of students that would be special education when developing this budget and the staff needed for special ed versus regular ed” (Transcript, p. 94).

As another example of this uncertainty regarding revenues, the proposed budget includes “bank interest;” however, the Applicant does not describe the source of the estimated earned interest in its submission and was unable to identify its source during the November 12 Hearing (Transcript, p. 96). Executive Education’s proposed budget does not include any sort of surplus that would earn interest and shows no other indication of funds that would generate such interest.

Additionally, the Applicant fails to account for startup operating costs that would be incurred as the school prepares to open, including rent, utilities, marketing, recruitment, and expenses related to personnel. When asked during the November 12 Hearing why startup revenue was not included in the proposed budget, a representative for the Applicant stated: “The people that work on this are donating their time. There are no really foreseeable costs. We have a lot of longstanding relationships with vendors and professionals in the educational space that are willing to support us all based on a contingency. So we didn’t submit a year zero budget” (Transcript, p. 93). Without a source of startup revenue, the Applicant will be unable to cover basic expenditures until it begins receiving recurring revenue (primarily from local tuition payments from school districts, which can take several months to process).

Further, the Applicant’s estimations around key areas of expenditure are incomplete and internally inconsistent, making it impossible to confirm if budget estimates and assumptions are reasonable. For example:

- Employee Salaries: The Application references a “budget target percentage” for compensation, noting that averages in the Lehigh Valley as well as across the Commonwealth will be considered when determining this target percentage (Application, pp. 77-78). When asked during the November 12 Hearing what the percentage is and how it will be determined, a representative of the Applicant stated, “When we make a budget, like an average [full time equivalent] FTE cost for a teacher versus the average FTE cost for a level administrator, just so when we build the budget, we have some sort of number to work with. Obviously, we know that a more experienced teacher would receive more compensation than a teacher in his first year, so we come up with an average cost for that” (Transcript, p. 99). Given the lack of detail in both the application and responses received during the November 12 Hearing, it is impossible to confirm that these assumptions are reasonable.
- Retirement Plan: The “Personnel Staffing Tables” included in the Application (Application Exhibit H, pp. 921-925) indicate that Executive Education intends to offer its employees an alternative retirement plan equal to five percent of salaries; however, no quote was included in the Application, nor did it contain a draft or request for proposal indicating this was plan forthcoming—as a result, it is impossible to confirm if the estimated costs are reasonable.
- Disability State Unemployment Tax and Workers’ Compensation: When asked during the November 12 Hearing what assumptions were used to develop the disability state unemployment tax and workers’ compensation budget amounts, a representative of the Applicant stated: “Just historical data from vendors and what we know about charter schools currently” (Transcript, p. 97). Based on a review of the Application, it is

impossible to determine how these amounts were calculated and whether they are reasonable.

- Contracted Services: Despite significant reliance on partnerships with Blackboard LMS, Apex, and Amplify, the Application narrative is devoid of supporting information on the budgeted amounts or fee schedules for each. During the November 12 Hearing, a representative from Executive Education indicated that budget assumptions were based simply on quotes received from the companies, though the quotes were not included in the application (Transcript, p. 100). Without documentation or evidence of the financial terms of the agreements with these proposed partners, it is impossible to determine if those costs are reasonable given the services to be provided.
- Facility Maintenance: The proposed budget includes four line items related to Building Services costs (insurance, rent, custodial services and supplies) totaling \$314,000 during the 2021-2022 school year and increasing to nearly \$623,000 by the 2025-2026 school year (Application Exhibit H). While the Application indicates that “custodial and maintenance [services] are included in the lease” (Application, p. 69), the Letter of Intent submitted with the application indicates that the tenant is responsible for janitorial expenses (Application Exhibit I). During the November 12 Hearing, the Applicant offered a third explanation: “It’s kind of twofold,” with services covered by the lease and supplies handled by the Applicant (Transcript, p. 111). Whatever the plan, it is impossible to assess the reasonability of the Building Services line items within the proposed budget.⁴
- Student Technology: During the November 12 Hearing, a representative of the Applicant indicated that the Technology Services line item contains costs associated with staff professional development as well as student technology (Transcript, pp. 101-102). The Applicant further represented that “technology is spread all over the budget” (Transcript, p. 105). With no narrative in the Application, and no additional clarification provided during the November 12 Hearing, it is impossible to know how much of the total in the Technology Services line item is for student technology, how much is for staff professional development, and where other student technology costs may have been budgeted. Accordingly, it is unclear whether budgeted expenditures for student technology are sufficient or reasonable.

III. The Applicant fails to demonstrate long-term organizational viability.

The lack of required information and other details related to estimated revenue and planned expenditures point to a more general, but significant, third concern—a failure to demonstrate ongoing financial sustainability. A further example of this potentially consequential finding is that the Applicant’s proposed budget does not include an operating surplus in any year and

⁴ In addition to budgetary concerns, the Applicant’s proposed facility is owned by Executive Education Academy Charter School Foundation, formed to benefit Executive Education Academy Charter School, a brick-and-mortar charter school. This arrangement raises concerns relative to existing or future conflicts of interest (Transcript, Exhibits 2 & 7; Application, Exhibit I).

contains no contingencies or reserves.⁵ These tight margins are especially concerning given that the Applicant is already relying on volunteer services for key start up activities (Transcript, p. 93).

Finally, demonstration of adequate planning and support requires an applicant to clearly state who will be responsible for finance and accounting functions. The individuals performing these functions must be qualified and experienced in charter school finance/accounting, and there must be sufficient individuals to perform the work and to allow for adequate segregation of accounting duties. From the Applicant's submissions and statements, it is unclear that the individuals performing the finance and accounting functions are qualified and experienced in charter school finance/accounting. Moreover, the proposed staffing plan appears to invest all finance and accounting functions with a single employee (the Business Office Manager), making the maintenance of proper internal controls problematic (Application, p. 63).

Executive Education neglects to provide evidence of adequate insurability; fails to furnish accurate, complete, and internally consistent expenditure and revenue plans; and exhibits long-term financial vulnerability through inadequate contingencies and internal controls. Accordingly, the Application is denied.

Criterion 3: Executive Education fails to provide evidence that its planned programs will enable students to meet standards under 22 Pa. Code Ch. 4.

Executive Education's Application fails to provide information necessary for evaluating proposed academic programs and key school policies. Specific findings are as follows:

- A. Executive Education's application is silent on key aspects of educational technology planning, infrastructure, and delivery.

Section 1747-A requires a cyber charter applicant to detail "the technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student"; "the technical support that will be available to students and parents or guardians"; and "the privacy and security measures to ensure the confidentiality of data gathered online" 24 P.S. § 17-1747-A(a)(6),(9), (10), and (12).

The Applicant fails to address each of these foundational standards for a high-quality virtual education program. Executive Education's application fails to include information for the Department to assess whether appropriate privacy and security measures are in place to guarantee the confidentiality of data gathered online (Transcript, pp. 70-71), methods for ensuring authenticity of student work and the proctoring of exams (*Id.* at 71), and how

⁵ Instead of budgeting reserves, the Applicant indicated that it had intentionally over-estimated expenditures, stating "there's room already built into some of those line items for exceeding those expenditures. So there is some room for over-spending in those categories that are in the budget" (Transcript, p. 96). The practice of overestimating expenditures is not a sound budgeting practice, as it would be impossible for the applicant to have a full and accurate view of its finances.

equipment and internet connectivity will be provided (*Id.* at 71-72). Even with the testimony at the November 12 Hearing, these deficiencies are so noteworthy that they raise questions about whether the Applicant’s plans would be compliant with relevant federal regulations including the Children’s Internet Protection Act (Transcript, pp. 70-74).

B. Executive Education fails to adequately outline required staffing and professional development plans.

Educator effectiveness is the most significant in-school influence on student learning. Accordingly, any meaningful evaluation of an applicant’s preparedness to support students in meeting state standards requires careful attention to plans to identify, support, and retain highly effective educators. 24 P.S. §§ 17-1719-A(13), 17-1747-A.

Executive Education’s proposal is woefully deficient in each of these areas. The Applicant acknowledges that “there is no proposed faculty” (Application, p. 83)⁶; provides conflicting information on the interplay between staffing plans and the state’s professional certification requirements (Application, pp. 77, 83)⁷; makes outdated references to federal requirements concerning educator equity reporting (Application, p. 81); and fails to address the form and provision of employee health care benefits, other than to say that such benefits are “enumerated above”—while neglecting to actually enumerate them (Application, p. 82).⁸ Further, the Applicant miscalculates its planned teacher to student ratio, and provides a static estimate for special education teachers (three positions) (Application, p. 63), while escalating estimates for other “staff” (*Id.* at p. 77)—making it impossible to assess whether the proposed staffing plan is appropriate and matches enrollment projections over time.

Further, the Applicant outlines a non-compliant professional education plan (Transcript, pp. 89-91), “draw[s] a blank” on professional development evaluation before generally describing a post-session “Google survey” (Transcript, p. 91), and neglects to include a teacher induction plan of any sort (Transcript, p. 88).

C. Executive Education proposes inadequate practices for vulnerable student populations.

⁶ In addition to not providing a proposed faculty, the Applicant’s acting CEO is currently the Chief Operating Officer for Executive Education Academy Charter School, bringing into question the independence and control of Executive Education from its brick-and-mortar counterpart (Transcript, pp. 20-21). This possible comingling between the existing and proposed schools was also raised in public comment (Transcript, Exhibit 7).

⁷ On page 77, the Applicant indicates that “all teachers will hold valid instructional certifications for the areas they teach or will possess them within one year of employment.” On page 83, the Applicant indicates that it will “ensure that at least 75% of the teachers hold the appropriate state certification in the area in which they are employed to teach.”

⁸ On page 82, the Applicant “generally” outlines short- and long-term disability, dental, and vision coverages, while referencing “Health Care Insurance benefits enumerated above.” Such benefits are not discussed under brief descriptions of “Teacher Compensation” on page 77 or “Additional Benefits” on page 79, beyond a vague reference to “benefits [being] offered to faculty and staff according to applicable law.”

A cyber charter school's statewide catchment means that applicants must demonstrate readiness to serve a wide range of student populations including historically underserved groups such as English learners and students receiving special education services.

For English learners, cyber charter schools are required to "provide a program for each student whose dominant language is not English for the purpose of facilitating the student's achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction" (22 Pa. Code § 4.26).

Instead, the Applicant provides no evidence of a process by which their program will be regularly and periodically evaluated and adjusted to ensure that English learners are overcoming language barriers (Transcript, p. 50), fails to plan for implementation of bilingual instruction across grades (Transcript, p. 52), and acknowledges that it is unsure of plans to verify that bilingual instructional staff possess proficiency in both academic English and in the partner language of the bilingual teacher (*Id.*).

Planning for special education services is similarly deficient, with the Applicant referencing No Child Left Behind era requirements (Application, p. 88); relying on provisions erroneously drawn from a brick and mortar program (Transcript, pp. 59-60); establishing admission policies that fail to address accurate procedures related to Individualized Education Programs for children who transfer public agencies in the same State in accordance with 34 C.F.R. § 300.323(f) (Application, p. 35 and Transcript, pp. 57-58); and demonstrating inadequate understanding of least restrictive environment and continuum of services requirements under 34 C.F.R. Part 300 (Application, p. 24 and Transcript, p. 57).

Executive Education's application neglects important, required details on educational technology, infrastructure, and delivery; fails to provide basic, internally consistent plans around staffing and supports; and disregards state requirements in outlining policies for vulnerable student groups. Accordingly, the Application is denied.

Criterion 4: Executive Education's application is non-compliant with requirements of section 1747-A.

The CSL requires any charter school application to meet application standards under Section 1719-A, while an application for a cyber charter school must meet an additional 16 standards described at Section 1747-A. Executive Education's application reflects significant deficiencies from both sections, summarized in Table 1, next page.

Table 1. Missing and Deficient Application Elements

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 17-1747-A	Application Deficiencies
<p>Section 1719-A(5): “[T]he curriculum to be offered and the methods of assessing whether student are meeting educational goals.” Section 1747-A(1): “The curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4”</p>	<p>While the Applicant included general descriptions and course listings from Apex Learning for a minimal number of courses (Application, pp. 9-21, Exhibit A; Transcript, pp. 82-83); the Applicant fails to include the curriculum for all planned grade levels, rendering the Department’s review impossible.</p>
<p>Section 1719-A(13): “The proposed faculty and a professional development plan for the faculty of a charter school.”</p>	<p>As discussed above, the Applicant failed to include a compliant professional development plan (Transcript, p. 91), a teacher induction plan (<i>Id.</i> at 88), or a proposed faculty (Application, p. 83).</p>
<p>Section 1719-A(17): “How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employes and the board of trustees of the charter school.”</p>	<p>As discussed above, while the Applicant indicated it plans to obtain insurance, it fails to include copies of certificates of insurance or references to any requests for proposals that would indicate such policies are forthcoming. Further, the types of insurance listed did not include the required director and officers’ liability coverage (Application, p. 71).</p>
<p>Section 1747-A(6): “The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.”</p>	<p>The Application fails to articulate specifications for any hardware or other equipment that will be provided to students, and expressly acknowledges this deficiency (Transcript, pp. 71-72).</p>
<p>Section 1747-A(9): “The technical support that will be available to students and parents or guardians.”</p>	<p>The Application makes minimal reference to technical support being provided through its proposed learning management system contractor but fails to describe what other technical support will be available for hardware, equipment, and other software (Application, p. 45). At the November 12 Hearing, the Applicant again failed to articulate the specific types of support, including technical support service level</p>

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 17-1747-A	Application Deficiencies
	standards, that will be available to students and families (Transcript, pp. 69-70).
Section 1747-A(10): <i>“The privacy and security measures to ensure the confidentiality of data gathered online.”</i>	While the Applicant references privacy and security measure already in place in a separate school entity, the Application fails to include information or policies regarding Executive Education’s privacy and security measures (Transcript, pp. 70-71).
Section 1747-A(12): <i>“The methods to be used to insure the authenticity of student work and adequate proctoring of examinations.”</i>	The Application fails to include information for the Department’s review (Transcript, p. 71).

The CSL sets forth application requirements that pertain to all charter school applicants (section 1719-A) and additional requirements for aspiring cyber charter schools (section 1747-A). As listed above, Executive Education’s application reflects deficiencies in both sections of the statute, evidencing failure to plan and failure to comply with foundational elements of the CSL. Accordingly, the Application is denied.

Criterion 5: Executive Education fails to substantiate that it will serve as a model for other public schools.

The legislative intent underlying the CSL argues for improved student learning, new and increased learning opportunities for both students and educators, and accountability for meeting academic standards. With these considerations in mind, the Department must evaluate a cyber charter school applicant based, in part, on whether it might serve as a model for other public schools statewide, including other cyber charter schools. As noted in previous decisions, the absence of CAB or court decisions concerning what makes for a “model” requires the Department to turn to the dictionary for a clear, unambiguous definition: *“An example for imitation or emulation.” Model Definition*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/model> (last visited January 27, 2021).

Based on the deficiencies discussed above (*i.e.*, criteria 1, 2, 3, and 4), together with the analysis that follows, Executive Education does not merit imitation or emulation.

The most useful standard for determining whether one public school might serve as an example for another begins with consideration of the 2015 reauthorization of the federal Elementary and Secondary Education Act (ESEA), the Every Student Succeeds Act (ESSA), which required states to design and implement systems for holding all public schools accountable for student

outcomes, with particular focus on narrowing outcome gaps for historically underserved populations (20 U.S.C. § 6311). These systems must include academic achievement, graduation rate, and non-academic or student success measures. States must regularly assess school performance against these measures to designate schools for support and potentially more intensive interventions.

These designations currently impact all 14 of Pennsylvania’s existing cyber charter schools; ten of these schools carry Comprehensive Support and Improvement designations, indicating that the school is among the very lowest performing in the state, while the remaining four exhibit low performance among historically underserved student groups.⁹ Despite the significant interactions between the state’s accountability system and existing cyber charter schools and the fact that Executive Education’s existing charter school carries an ESSA accountability designation¹⁰, the Applicant exhibited no understanding of ESSA requirements¹¹, failed to indicate any graduation rate goals, and provided no meaningful basis for achievement goals outlined in the application (other than the goals are “just based off of the state in general” (Transcript, p. 77)).

The Applicant’s achievement goals, however fashioned, are flawed in at least three ways. First, proposed Year 1 goals would make Executive Education among the highest achieving cyber charter schools in the state; however, as noted above, the Applicant provides no evidence or support for these goals or how they might be achieved during the short window of time between school opening and the administration of statewide assessments just a few months later. As one public commenter, a nationally recognized expert on the effects of charter schools, noted: “I do not observe convincing evidence . . . that the [Applicant] will provide the substantial and robust synchronous instruction that is surely needed to maintain student engagement and promote learning” (Transcript, Exhibit 5). The Department’s concerns in this area are compounded by achievement data reported by the Applicant’s existing charter school, as detailed in Table 2, next page:

⁹ See Pennsylvania Department of Education (2019) for accountability designation lists, available at: <https://www.education.pa.gov/K-12/ESSA/Pages/Accountability.aspx> (last visited January 27, 2021).

¹⁰ Executive Education Academy Charter School was designated for Targeted Support and Improvement status in Fall 2019 based on low performing student groups.

¹¹ During the November 12 Hearing, Department staff asked the Applicant to describe Executive Education's understanding of federal accountability under the ESSA. A representative of the Applicant answered: “I’m going to say I don't have enough information at this time to answer that question effectively” (Transcript, p. 78).

Table 2. Applicant’s Proposed and Existing Achievement Levels¹²

Achievement Goals (% of all students scoring Proficient or Advanced)	Proposed: Executive Education Cyber	Existing: Executive Education Academy Charter School
<i>Pennsylvania System of School Assessment</i>		
English Language Arts	65%	41.4%
Mathematics	50%	16.5%
Science	65%	52.9%
<i>Keystone Exams</i>		
Literature	76%	53.9%
Algebra	68%	22.1%
Biology	68%	25.3%

While the Applicant aims for Year 1 achievement levels that are, in some instances, more than double proficiency rates at its existing school, out year performance flat lines, with annual gains in the range of one to two percentage points (Application, pp. 7-8). The Application is silent on how these modest improvement goals were constructed, and the only technically accurate characterization of the Department’s Future Ready PA Index and ESSA requirements during the November 12 Hearing came from a member of the public speaking in opposition to the Application (Transcript, pp. 12-13).

Finally, beyond absolute achievement goals, Executive Education proposes to produce “increased scores” for students falling in each of three assessment performance levels: Below Basic, Basic, and Proficient. While the Applicant expresses these goals on a percentage basis (for example, “Students who scored below basic the year prior will show an increased score of 10%”), such reporting is impossible given the lack of vertical scaling across assessments (Application, p. 8).

Executive Education exhibits no knowledge of federally required measures for school performance; sets initial academic outcomes that are unsupported by evidence and the Applicant’s existing charter school; and proposes certain longer-term goals that are technically infeasible. These findings, together with findings from criteria 1, 2, 3, and 4, demonstrate that Executive Education is not a model for other public schools. Accordingly, the Application is denied.

¹² See Pennsylvania Department of Education for school-level results, available at: <https://www.education.pa.gov/DataAndReporting/Assessments/Pages/PSSA-Results.aspx> (last visited January 27, 2021); and, <https://www.education.pa.gov/DataAndReporting/Assessments/Pages/Keystone-Exams-Results.aspx> (last visited January 27, 2021).

Conclusion

The Department must evaluate a cyber charter school application against five statutorily enumerated criteria. Based on the application submitted and testimony during the November 12 Hearing, the Department finds multiple, significant deficiencies for each count. These deficiencies, individually, collectively, and in any combination, are cause to deny the application.

Executive Education may appeal this decision to the State Charter School Appeal Board (“CAB”) within 30 days of the date of the mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 1746-A. If Executive Education files an appeal with CAB, it shall serve a copy of its appeal on the Department at the following address:

Pennsylvania Department of Education
Office of Chief Counsel
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333

In addition to serving a copy via mail, the appeal must be filed in accordance with the Department’s Procedures for *Electronic Filings and Video/Telephonic Hearings During COVID-19 Emergency* via email to the following address: ra-EDCharterBoard@pa.gov.

In the alternative, the CSL allows the applicant to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). If Executive Education submits a revised application, it shall submit the revised application to the Department at the following address:

Pennsylvania Department of Education
Division of Charter Schools
333 Market Street, 3rd Floor
Harrisburg, PA 17126-0333
RA-CharterSchools@pa.gov

To allow sufficient time for the Department to review the revised application, the revised application must be received by the Department at least 120 days prior to the originally proposed opening date for the cyber charter school. A revised application received after this time period will be returned to the applicant with instructions to submit a new application in accordance with 24 P.S. § 17-1745-A(d).



Noe Ortega
Acting Secretary of Education

*Executive Education Cyber Charter School
Decision by the Pennsylvania Department of Education*

Date mailed: January 28, 2021