



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

January 13, 2023

VIA CERTIFIED MAIL AND E-MAIL

Mr. Alexander D. Schuh, Ph.D.
ChallengeU Pennsylvania Cyber Charter School
178 Summit Lane
Bala Cynwyd, PA 19004
alex@schoolfrontiers.com

Re: ChallengeU Pennsylvania Cyber Charter School Application Decision

Dear Mr. Schuh:

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

If you have any questions, please contact the Department’s Division of Charter Schools at ra-charterschools@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Hagarty".

Eric Hagarty
Acting Secretary of Education

Enclosure

cc: Dr. Jeffrey Fuller, Deputy Secretary, OESE
Dr. Carrie Rowe, Advisor to Deputy Secretary, OESE

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.

On October 1, 2022, the Department provided notice of a public hearing for cyber charter school applications. ChallengeU Pennsylvania Cyber Charter School (hereinafter referred to as “ChallengeU” or “Applicant”) submitted an application to establish a cyber charter school (“Application”) on October 3, 2022. In accordance with the public notice, the Department received comments in opposition to and in support of the Application. The Department held a public hearing for ChallengeU’s application on November 16, 2022 (hereinafter referred to as “November 16 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 16 Hearing, and public comments concerning the application, the Department denies ChallengeU’s application. While a single deficiency would be grounds for denial, the Department has identified deficiencies in several criterion. Discussion of the specific deficiencies follows.

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

Criterion 1: 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. Prior Charter Appeal Board (CAB) and court decisions have found that demonstrated, sustainable support for a charter school may be evaluated in a variety of means—through petitions, records of community meetings, letters of support, financial support from a non-profit organization, and evidence of pre-applications (*Montour Sch. Dist. v. Propel Charter School-Montour*, 889 A.2d 682, 687 (Pa. Cmwlth. 2005); *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131, 137 (Pa. Cmwlth. 2001)). While ChallengeU’s application includes several artifacts that purport to document such support, there is scant evidence to support this assertion.

For example, ChallengeU’s application references 21 identical form letters of support, including one from a financial counseling agency (Application, Appendix 133), two from a kidney disease support group (Application, Appendix 134-135), and one from a Florida-based marketing company (Application, Appendix 145). The only original letter of support came from an out-of-state digital developer (Application, Appendix 144). While the Application does include non-binding letters of intent to enroll from parents and students, more definitive measures of broad-based statewide support are absent; the Application is devoid of petitions, records of community meetings, or letters of financial support from non-profit organizations.

Three representatives of the Breaking the Chains organization, a Philadelphia-based outreach program working with at-risk youth, attended the hearing and provided public comment in support of the Applicant. While the goals of this group are commendable, the public support of a single group whose reach is limited to the greater Philadelphia area is insufficient to demonstrate sustainable support for a statewide cyber charter school, especially when weighed against the opposing statements from representatives of the School District of Philadelphia, the Harrisburg School District, and the PA Charter Performance Center.

Moreover, the founding coalition is described simply as consisting of “businesses, institutions, and people” (Application, p. 107). Without additional information given as to the composition of this group, it is not possible to evaluate the necessary ideological continuity between the founding coalition and the eventual Board of Trustees. The Application states that the founding board “consists of three members, [who] will take on the duties of the governing Board of Trustees once the charter has been approved” (Application, p.107). Even if the Board of Trustees adds “one parent of a student enrolled in the school” after it opens (Application, p. 100), it is unclear whether a two-person quorum could dictate school affairs until one or more board members are potentially appointed.

ChallengeU has not provided enough information as to demonstrate sustainable support for a statewide cyber charter school. Accordingly, the Application is denied.

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

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.² ChallengeU fails to demonstrate this capacity in several areas. Specific findings are as follows:

A. The Applicant fails to demonstrate financial stability.

A cyber charter school applicant is required to provide a preliminary operating budget, inclusive of projected revenue sources (24 P.S. § 17-1719-A). Revenue and expenditure estimates must be sufficient and reasonable to demonstrate the applicant's capability, with respect to both financial support and planning, to provide comprehensive learning experiences for students. Submitted budgets should be complete and accurate, and the applicant should explain how it developed its revenue and expenditure estimates.

While ChallengeU's application did include a budget, there are several issues that make it difficult for the Department to reconcile the assumptions underlying it. Chief among those concerns is the failure to include a budget narrative that would provide the context for items presented in the budget, as well as a rationale for expected items that are excluded from the budget. Significant concerns and irregularities were identified during a review of the expenditure side of the budget, including expenditures for staffing, management services, and budget contingencies.

First, related to expenditures, it is not possible to determine if certain personnel costs are sufficient, reasonable, and consistent with the rest of the application. The Application includes detail on projected salaries (Application, Appendix A, p. 14), but does not include an explanation for how those salaries were determined, stating only that for teaching positions, a salary range will be determined based on research of market compensation and financial considerations . . ." (Application, p. 132). During the hearing, the Applicant stated that they used an estimate of \$60,000 for instructional positions, in order to ensure competitiveness (Transcript, p. 14). The Application also shows estimated salaries of \$75,000 for both the assistant principal and administrative assistants. Based on the provided staffing chart, the Applicant has 1 administrative assistant in Year 1 and grows to 3 administrative assistants by Year 5. The assistant principal position will not start until Year 3, but there will be 2 positions by Year 5. During the Hearing, the Applicant stated that the administrative assistant positions are not administrators but are highly skilled positions who will help ease the burden of the school principal, as the principal/CEO and Director of Special Education are the only projected administrators shown on the staffing chart for the initial 2023-24 year (Transcript pp. 135-136).

² See *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).

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It appears the Applicant may be using the positions of assistant principal and administrative assistant interchangeably, given the similarities in base salary and description during the hearing. Additionally, the detailed personnel budget does not show any salary expenditures for the assistant principal position, despite it being filled in Year 3 of the Application (Application, Appendix A, p.14), as shown in the following table.

Table 1. ChallengeU Selected Salary Positions and Projections

	2023-24	2024-25	2025-26	2026-27	2027-28
Enrollment	180	320	591	860	1,120
Assistant Principals	0	0	1	1	2
Projected Salary			\$75,000	\$77,250	\$79,568
Budgeted Salary Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -
Administrative Assistants	1	1	2	2	3
Projected Salary	\$75,000	\$7,250	\$79,568	\$81,955	\$84,413
Budgeted Salary Expenditures	\$75,000	\$77,250	\$159,135	\$163,909	\$253,239

Additionally, the Application uses the same projected staffing to student ratio of 500:1 for both the assistant principal and administrative assistants (Application, Appendix A, p. 14). This was confirmed during the hearing (Transcript, p. 134). However, based on the projected staffing chart, there are a different number of positions for each year of operation. It is not clear why the number of positions is different despite having the same established ratio.

Next, the Application included staffing ratios for projected student/teacher ratios (Application, Appendix A, p.14) but it is not clear that these ratios were used to develop the staffing plan for the school. These ratios were stated during the hearing at 35:1 for general education, 20:1 for special education, and 20:1 for English Learners (Transcript, p. 132). However, based on the projected enrollment and staffing list, these ratios do not match what is stated in the Application, as shown in the following table.

Table 2. ChallengeU Calculated Instructional Staffing Ratios

	2023-24	2024-25	2025-26	2026-27	2027-28
Regular Education Enrollment	126	224	413	602	784
Regular Education Teachers	4	7	12	18	23
<i>Calculated Staffing Ratio</i>	32	32	34	33	34
Special Education Enrollment	45	80	148	215	280
Special Education Teachers	3	4	8	11	14
<i>Calculated Staffing Ratio</i>	15	20	18	20	20
English Learners Enrollment	9	16	30	43	56
English Learner Teachers	1	1	2	3	3
<i>Calculated Staffing Ratio</i>	9	16	15	14	19

It may be possible that the Applicant is including other positions not listed in the staffing chart such as lead coaches and graduation coaches, which will be provided through the management contract (Transcript, p. 141). Based on the information provided, though, it is not possible to determine how the Applicant determined the staffing ratios as outlined in the Application and described at the hearing. The Applicant did not adequately identify/describe all significant non-personnel expenditures (e.g., contracts, technology purchases, leases, supplies, materials) and the assumptions used to estimate each. ChallengeU states that it intends to utilize a management company, ChallengeU Pennsylvania Management, to provide academic, financial, and operational supports, but the budget does not identify which line items are attributed to the management contract. During the hearing, the Applicant stated that “. . . under the driver column, each of the services within the budget that are provided by ChallengeU . . .” (Transcript, pp. 168-169). Moreover, there are differences between what line items are called in the budget and the fee schedule included in the Application. There are series of items listed under “other services” that show the management company providing the service, including travel, telephone/internet, printing and binding, and postage and shipping that are not included on the provided fee schedule (Application, Appendix A, pp. 13-17). The fees for each of these services is listed as a cost per full-time employee (FTE). It is not clear whether these costs are excluded from the fee schedule, or whether the costs are incorporated into another fee.

The management agreement also references the intention to utilize Charter Choices to assist with financial oversight of ChallengeU, but neither a subcontract nor an agreement were provided to confirm the estimates shown in the budget (Appendix C, p. 28). During the hearing, this was confirmed by the Applicant (Transcript, p. 185). The budget shows an estimated \$450 rate, with no further detail. During the hearing, the Applicant stated that this was a charge of \$450 per average daily membership (ADM) (Transcript, p. 185). However, without a subcontract or

agreement, it is not known whether this fee is correct or whether additional fees are also included.

The Applicant’s budget also includes four building-related expenditures: rent, facility management, cleaning, and utilities (Application, Appendix A, p.13), with projected costs as shown in the following table. According to the information shared at the hearing, the budget assumes plans to expand to purchase additional facilities; this is what is driving the ongoing increase in rental costs, along with renting facilities for testing sites (Transcript, pp.158-161).

Table 3. ChallengeU Proposed Facility Expenditures

	2023-24	2024-25	2025-26	2026-27	2027-28
Rent	\$68,900	\$ 81,010	\$ 106,196	\$ 149,868	\$ 174,116
Facility management	\$20,000	\$ 35,000	\$ 75,000	\$ 105,000	\$ 125,000
Cleaning	\$11,925	\$ 14,021	\$ 18,380	\$ 25,939	\$ 30,135
Utilities	\$9,275	\$ 10,905	\$ 14,296	\$ 20,174	\$ 23,439
Total	\$110,100	\$ 140,936	\$ 213,872	\$ 300,981	\$ 352,690

The facility management costs shown in the budget are for a facility coordinator position to help manage satellite offices, hotel rooms, or shared spaces (Transcript, p.162). This information is inconsistent with the information shared at the hearing about the projected small enrollment and the focus on the Harrisburg area noted earlier in this rubric. The Applicant states that they believe this position will be filled by someone within ChallengeU’s management company (Transcript, p. 163). However, facility management does not appear on the provided fee schedule for the management company, and it is unclear under which line-item facility management services would be included. As the school has a small projected operating surplus and fund balance in the first five years of operation, unplanned expenditures may prove to be catastrophic.

Furthermore, the Application includes estimates for technology costs that are unclear. When asked to provide a complete list of the technology that will be supplied, the Applicant stated \$400 of equipment and \$500 for the computer (Transcript, pp. 147-148). However, the management fee schedule provided by the Applicant lists student computers and printers at \$400 per pupil (Application, Appendix A, p. 17). The management fee schedule shows several other items under equipment and consumables, but it was not possible to reconcile the amounts provided by ChallengeU. Inconsistent and unclear information on the assumptions regarding equipment replacement in the Application was also provided. During the hearing the Applicant stated that they have “. . . budgeted for full replacement on a yearly basis, if necessary” (Transcript, p. 81). Later in the hearing when asked if annual replacement for all computers was assumed in the budget, ChallengeU stated “no . . . it’s each time you enroll, you have a computer” (Transcript, pp.149-150). Based on the provided fee schedule, the school has budgeted a \$400 per pupil charge.

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In the following table, the calculated annual purchase costs are determined by dividing the listed budgeted expenditures for computers and printers by the listed base price unit. This analysis almost matches the projected new enrollment for each student by year based on the information in the Application, implying that the school is only budgeting for a new computer for the additional students each year and has not estimated any life-cycle replacements for existing students during the five-year period.

Table 4. Student Computers and Printer Expenditures

	2023-24	2024-25	2025-26	2026-27	2027-28
Budgeted Expenditures per year	\$72,000	\$57,680	\$114,577	\$118,015	\$117,053
Base price unit	\$400	\$400	\$400	\$400	\$400
Calculated annual purchase	180	144	286	295	293
Projected School Enrollment	180	320	591	860	1120
New Enrollment		140	271	269	260

The fee schedule provided in the Application is also inconsistent with the information shared at the Hearing. For example, the provided fee schedule states that the Community Outreach and Communications line item is \$1,000 per pupil per month (Application, Appendix, p.17). However, during questioning at the Hearing, the Applicant stated that this should actually be per year per student – a discrepancy that applies to several of the other fees in the fee schedule (Transcript, pp. 176-177). It is not possible to be certain of any of the projected costs in the fee schedule or budget due to the discrepancies in the information provided.

Related to revenue, the Applicant’s assumptions around charter enrollment fail to demonstrate an understanding of how cyber charters operate in the Commonwealth of Pennsylvania. The Applicant projects relatively low enrollment for the school over the projection period, beginning with 180 students in the first year of operation and increasing to 1,120 by Year 5. Using the enrollment assumptions in the Application, 25 percent of the school’s projected enrollment will come from special education students, as shown in the following table (Application, Appendix A, p. 15).

Table 5. ChallengeU Projected Enrollment

	2023-24	2024-25	2025-26	2026-27	2027-28
Regular Education	135	240	443	645	840
Special Education	45	80	148	215	280
Total Enrollment	180	320	591	860	1,120
% Special Education	25%	25%	25%	25%	25%
Annual % Growth		77.8%	84.7%	45.5%	30.2%

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Given that ChallengeU proposes to operate only grades 9-12 (and focus only on students who have previously dropped out of school), 45 students per grade level in the first year of operation is assumed. ChallengeU described their approach to enrollment during the hearing, stating that they want to start small and grow slowly (Transcript, p. 125). When asked how the Applicant would be able to ensure that enrollment levels are kept low with limited growth, the Applicant did not outline any proscribed constraints on enrollment such as an enrollment cap. Instead, they stated that they intend to selectively identify community organizations to partner with in order to grow enrollment, with a specific focus on the Harrisburg region (Transcript, pp. 126-127). In Pennsylvania, cyber charter schools operate under a statewide charter, and students from anywhere in the Commonwealth are eligible to enroll. Therefore, it is not clear how the Applicant can selectively partner with organizations in a particular geographic area only, nor ensure enrollment will remain within stated constraint without violating the CSL.

Despite a stated desire to keep enrollment low, ChallengeU estimates spending a significant amount annually on community outreach and communication services, which includes costs for marketing (Transcript, p. 143). As shown in the following table, these costs grow from \$180,000 in Year 1 to almost \$2.5 million by Year 5, representing an average of 10 percent of the Applicant’s total projected expenditures over the period and a total of \$6.1 million over the projection period.

Table 6. ChallengeU Projected Community Outreach and Communication Expenditures

	Start Up	2023-24	2024-25	2025-26	2026-27	2027-28
Community Outreach and Communication	\$20,000	\$180,000	\$576,000	\$1,180,000	\$1,720,000	\$2,464,000
Total Expenditures	\$187,676	\$3,124,014	\$5,528,632	\$10,220,814	\$15,107,480	\$19,928,471
Percent of Total Expenditures	11%	6%	10%	12%	11%	12%
Projected Enrollment		180	320	591	860	1120
Community Outreach and Communication per Student		\$17,356	\$17,277	\$17,294	\$17,567	\$17,793

Based on the projected student enrollment and amount budgeted, the school would be spending more than \$17,000 per student it enrolls each year. This is higher than the school’s proposed regular tuition rate of \$13,318.

At the hearing, the Applicant stated that the strategy around marketing includes community outreach by partnering with community organizations, sponsoring local events, and engagement on social media (Transcript, pp. 143-145). The fee for this service – which is charged by the management company – includes a component for community outreach, and one for

communication. However, it is not clear from the information provided at the hearing whether this fee is charged based on the number of students who are enrolled or the number of students they plan to enroll, as conflicting information was presented. The Applicant stated that they “...do not charge upfront the school. We will charge them only if we enroll a student” (Transcript, pp.146-147). When asked if this fee was a cost for students that are already enrolled, the Applicant responded in the negative (Transcript, pp.144-145).

The Applicant provided revenue assumptions in the budget; however, it is difficult to reconcile the Applicant’s per-pupil tuition rates and assumptions to the dollar values listed in the budget. The Application includes estimated per pupil rates for regular and special education (Appendix A, p. 10), but the Application does not explain the source of the estimates. During the hearing, the Applicant stated that rates of \$13,318 for general education and \$29,838 for special education were used and that the general (regular) education rate is “...an average rate based off of data that’s on the PDE website from October...” and the special education rate is the statewide average (Transcript, p.127). However, when using the projected enrollment provided by the Applicant, it is not possible to confirm the calculated tuition rates.

Additionally, the regular education and special education rates used in estimating revenues do not match the information provided by the Applicant, as shown in the following table. When dividing the projected revenue by the enrollment provided in the Application for regular (general) and special education, ChallengeU appears to have used an actual estimate of \$12,679 for a per-pupil rate for regular education students and a special education rate of \$30,435 for the FY2023-24 year. The estimates for regular education include estimates for English Learner enrollment, as discussed during the hearing (Transcript, pp.127-128).

Table 7. Projected Per-Pupil Rates, 2023-24 to 2027-28 ³

	2023-24	2024-25	2025-26	2026-27	2027-28
Regular Education Revenue-ChallengeU Budget	\$1,711,629	\$3,013,064	\$5,610,891	\$8,260,372	\$10,865,271
Special Education Revenue - ChallengeU Budget	\$1,369,564	\$2,410,910	\$4,489,567	\$6,609,556	\$8,693,872
Regular Education Enrollment	135.0	240.0	442.5	645.0	840.0
Special Education Enrollment	45.0	80.0	147.5	215.0	280.0
<i>Calculated Regular Ed</i>	<i>\$12,679</i>	<i>\$12,554</i>	<i>\$12,680</i>	<i>\$12,807</i>	<i>\$12,935</i>
<i>Calculated Special Ed</i>	<i>\$30,435</i>	<i>\$30,136</i>	<i>\$30,438</i>	<i>\$30,742</i>	<i>\$31,050</i>
<i>Budgeted Regular Ed</i>	<i>\$13,318</i>	<i>\$13,451</i>	<i>\$13,586</i>	<i>\$13,722</i>	<i>\$13,859</i>
<i>Budgeted Special Ed</i>	<i>\$29,838</i>	<i>\$30,136</i>	<i>\$30,438</i>	<i>\$30,742</i>	<i>\$31,050</i>

³ A 1 percent annual increase was assigned to the budgeted per pupil rates as shown in this table based on the projected annual per pupil increase outlined in Appendix A, p. 10 of the Application.

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ChallengeU did include information related to startup revenue in the Application, but the Application narrative did not explain how the Applicant determined the amount required. Specifically, the Applicant’s budget includes \$190,000 as “proceeds from debt” that is assumed to be a start-up loan from the school’s proposed management company, ChallengeU Pennsylvania School Management (Application, p.111). Interestingly, the first-year startup loan amount is higher than the total projected first-year expenditures for the school, making the absence of a rationale describing how the Applicant arrived at this figure all the more noticeable. Finally, just as the contract with the management company was not supplied, neither were a copy of the loan agreement and promissory note, making it impossible to confirm the amount of the loan and determine the interest and repayment terms.

Another deficiency with the budget was the Applicant’s failure to adequately describe its plans for budget contingencies in the event revenues are less than projected. While the proposed budget did include a fund balance, no plans for contingencies or reserves were included in the Application. In addition, the projected fund balances are only 1 percent of revenues (Appendix A, p.9) and fall short of the Government Finance Officers Association (GFOA) recommendation that, at a minimum, entities maintain unrestricted budgetary general fund balances of no less than two months of regular general fund operating revenues or expenditures.

As can be seen in the following table, the Application projects very minimal surplus for the first three years of operation (less than \$100,000) and even in the final year of the projected budget, total fund balance is only \$400,000, which is only 2 percent of total projected expenditures.

Table 8. ChallengeU Projected Fund Balance

	Start Up	2023-24	2024-25	2025-26	2026-27	2027-28
Revenues (\$M)	\$0.2	\$3.1	\$5.6	\$10.3	\$15.2	\$20.1
Expenditures (\$M)	\$0.2	\$3.1	\$5.5	\$10.2	\$15.1	\$19.9
Operating Result (\$M)	\$0.0	\$0.0	\$0.0	\$0.1	\$0.1	\$0.1
Fund Balance (\$M)	\$0.0	\$0.0	\$0.0	\$0.2	\$0.3	\$0.4
FB as % of Expenditures		0.6%	0.7%	1.5%	1.8%	2.0%

During the hearing, the Applicant stated that the “. . . budget assumes one percent increase in fund balance each year, which is within guidelines that we set at Charter Choices” (Transcript, p.153). As the majority of revenues are driven by enrollment which can be difficult to predict, having budget contingencies in place in the event that revenues are less than projected is imperative.

B. 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)); this information is crucial to ensure basic protections for the school’s stakeholders in the event of school closure, and to guard investments by Pennsylvania taxpayers.

The Applicant does not sufficiently discuss the proposed cyber charter school’s insurance coverage plans and there is a disconnect between the Application’s narrative and the budget. Specifically, while the Application contains information regarding planned insurance purchases (Application, p. 120), the budget lists only General Property and Liability insurance, and it is not clear if other insurance costs are even included in the projected budget. In addition, no quotes from insurance companies were included in the Application to support the budgeted amounts.

The Applicant fails to demonstrate necessary financial planning and does not sufficiently address the insurability requirements. Accordingly, the Application is denied.

Criterion 3: There is no compelling evidence that ChallengeU’s proposed programs will enable students to meet academic standards under 22 Pa. Code Ch 4 (relating to academic standards and assessment).

- A. The Applicant failed to provide a fully articulated K-12 curriculum that meets the requirements of Chapter 4. Additionally, the Applicant only included standards-aligned core curricula but failed to include standards-aligned elective curricula.

ChallengeU failed to provide information necessary to evaluate the extent to which programs outlined in the Application will enable students to meet standards under 22 Pa. Code Chapter 4, as required by section 1745-A(f)(1)(iii). Specifically, ChallengeU failed to align all curriculum to PA Standards set forth in section 1719-A, which states that a cyber charter school application must include “the curriculum to be offered and how it meets the requirements of 22 Pa Code Chapter 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Chapter 4” 24 P.S. § 17-1747-A(1). While ChallengeU provided the alignment of core courses, standards-aligned curricula for Arts, Health and Physical Education, and Family and Consumer Sciences are not included in the Application.

- B. The Applicant outlines practices that are inadequate to meet the needs of vulnerable student populations.

A cyber charter school’s statewide catchment means 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.

In terms of English Learner programming, 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). Specifically, the Application fails to describe how the Applicant intends to include a policy ensuring English Learners will not be retained based solely on language proficiency and needs, it also describes outdated reclassification requirements (Application, pp. 44-45). Further, the Application does not explain how ChallengeU intends to identify or provide services to English Learners who are suspected of having disabilities in compliance with the Individuals with Disabilities Education Act and 22 Pa. Code Chapter 14. Lastly, there is no mention in the Application as to how ChallengeU intends to complete the parent interview process and provide important information to language minority parents in a language or mode of communication they understand.

The Applicant also fails to adequately meet the needs of students with special needs. The Application does not contain parent or teacher workshops for professional development and training with regards to students with special needs. Further, the enrollment process is unclear as to how students with special needs will be accepted into the school without discrimination.

C. ChallengeU fails to adequately outline required professional development plans.

Educator effectiveness is the most significant in-school influence on student learning and is especially important for historically underserved student groups. Accordingly, any meaningful evaluation of an applicant’s capacity to support students in meeting state academic standards relies on examination of the applicant’s plans to identify, support, and retain highly effective educators.

Yet in its Application, ChallengeU failed to adequately outline required staffing and professional development plans to analyze state assessment data and ways to improve instructional strategies based on the data and needs assessment of the staff. Additionally, ChallengeU did not share how their professional development plan is based on research or best practices. There were no specific details provided as to the number of hours or the number of sessions that would be provided per school year, nor was there any mention of specific professional development offerings that would be available or who would be participating. Likewise, the Application did not provide a teacher induction plan, a list of goals of the induction program, or a list of competencies that will be taught, modeled, and measured during the induction program 24 P.S. §§ 17-1719-A (13), 17-1747-A.

The Applicant does not provide a fully articulated curriculum consistent with the requirements of 22 Pa. Code Chapter 4, does not meet the needs of vulnerable populations, and does not provide fully developed professional development or induction plans. As such, the Application is denied.

Criterion 4: ChallengeU’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. ChallengeU’s application reflects deficiencies from both sections, summarized in Table 9, below.

Table 9. Summary of missing and deficient application elements

CSL-required contents of a charter school application. 24 P.S. §§ 17-1719-A, 17-1747-A	Application Deficiencies
Section 1719-A(4): <i>“The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.”</i>	While the proposed governance structure is provided (Application, p. 100), a description and method for electing new members to the board of trustees is unclear. The Application (p. 103) states that new members will be added and who may apply, but the Application does not specify how many members the board will have or how these new members would be selected.
Section 1719-A(5): <i>“The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.”</i>	As discussed above in Criterion 3, the Applicant has not provided a fully articulated curriculum.
Section 1719-A(6): <i>“The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of Section 1723-A.”</i>	The Application contains a description of the admission methods and eligibility criteria (p. 116). However, although the Application claims that the school is designed to serve overage/under-credited students (see The Mission, p. 1 of the Application), there is no description as to how this would factor into the application process. Additionally, the Application calls for periodic “enrollment freezes” (p. 127). There is no provision for this under the Charter School Law.
Section 1719-A(8): <i>“Information on the manner in which community groups will be involved in the charter school planning process.”</i>	The Applicant provided no specific evidence that community groups will be involved. The Application states that “ChallengeU PCCS sent representatives to make sure all voices were heard” (p. 102) but did not state which organizations or community groups were consulted.
Section 1719-A(9): The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.	The Application is unclear as to who will be providing finance and accounting functions. Certain functions will be provided by ChallengeU Pennsylvania School Management (p. 5), while others will be provided by Charter Choices (p. 105). There is no Business Manager included on the provided personnel list (Appendix A, p. 14).

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Section 1719-A(13): <i>“The proposed faculty and a professional development plan for the faculty of a charter school.”</i>	The Applicant does not yet have a proposed faculty and has not provided a professional development plan.
Section 1719-A(14): <i>“Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities.”</i>	No such agreements are part of the Application.
Section 1719-A(15): <i>“A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.”</i>	The Application only refers to Section 111 with regard to the founders/board members (p. 135). No other clearances have been provided.
Section 1719-A(16): <i>“An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.”</i>	The Application acknowledges that such clearances must be provided (p. 135) but does not address this with regard to staff clearances as no staff has yet been hired.
Section 1719-A(17): <i>“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.”</i>	As discussed in criterion 2 above, the Application contains only General Property and Liability insurance (Application, p. 120), and no quotes from insurance companies are included in the Application.
Section 1747-A(1): <i>“The 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 Chapter 4.”</i>	As discussed above, the curriculum does not fully meet the requirements of 22 Pa. Code Chapter 4.
Section 1747-A(3): <i>“An explanation of the amount of on-line time required for elementary and secondary students.”</i>	The school will serve only secondary students. The school day is defined in the Application (p.57) but does not specify how much time will be spent online in a given day.
Section 1747-A(5): <i>“A specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.”</i>	The Application discusses field trips and extracurricular opportunities (pp. 80-82) but has no specific opportunities – only what may be provided.
Section 1747-A(6): <i>“The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.”</i>	A description of some of the hardware to be provided is included in the Application (p. 87), but the list is incomplete. No peripherals or printers are mentioned.
Section 1747-A(7): <i>“A description of how the cyber charter school will define and monitor a student's school day, including the delineation of on-line and off-line time.”</i>	The Application is unclear as to how attendance is defined.

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Section 1747-A(9): <i>“The technical support that will be available to students and parents or guardians.”</i>	The Application specifically mentions how Imagine Learning will provide technical support (p. 85), but further technical support is not discussed.
Section 1747-A(14): <i>“Policies regarding truancy, absences and withdrawal of students, including the manner in which the cyber charter school will monitor attendance consistent with the provisions of section 1715-A(9).”</i>	No student handbook containing any official policies was provided as part of the Application. The Application states that the school or teacher may take actions “including formalizing truancy proceedings by notifying the student’s district of residence” (p.146), which is not in accordance with current school law.

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, ChallengeU’s Application reflects deficiencies in both sections of the statute. Accordingly, the Application is denied.

Criterion 5: ChallengeU 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. The Department turns to the dictionary for a straightforward definition of model: “An example for imitation or emulation.” Model Definition, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/model> (last visited January 12, 2023). Based on the deficiencies discussed above under criteria 1, 2, 3, and 4, together with the analysis that follows, ChallengeU fails to substantiate that it will merit imitation or emulation by other public schools.

The 2015 reauthorization of the federal Elementary and Secondary Education Act (ESEA), Every Student Succeeds Act (ESSA), required states to design and implement systems for holding schools accountable for student outcomes, with particular focus on narrowing outcome gaps for historically underserved populations. 20 U.S.C. § 6311. These systems must account for academic achievement, progress in achieving English language proficiency, chronic absenteeism, student progress on career standards benchmarks, and graduation rate measures. As an example, ESSA requires states to designate any public high school that fails to graduate one third or more of their students for Comprehensive Support and Improvement (CSI), the most intensive of three federally prescribed accountability designations.

In the Fall of 2022, Pennsylvania completed the second round of ESSA-required accountability determinations, resulting in Comprehensive Support and Improvement (CSI) designations for 14 of 14 cyber charter schools currently in operation; all cyber charter schools are currently performing in the lowest 5% of all schools in the state. The data found within ChallengeU’s

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application provide one metric by which the Department can evaluate whether it is capable of serving as a model for other public schools.

Relative to graduation rate, ChallengeU established a four-year adjusted cohort graduation rate (ACGR) of 60%, beginning in the 2023-24 school year (Application, p. 9). Even if ChallengeU were to meet their initial goal and their projected 2% increase per year, the school would still be in the lowest 5% of all public schools and automatically be designated for Comprehensive Support and Improvement (CSI). Additionally, ChallengeU plans to strive for a five-year ACGR of 70% but acknowledges that even the aforementioned goals are ambitious given the overage and under-credited population they plan to serve, whose graduation rate from an alternative program such as ChallengeU is “typically between 20% and 40%” (Application, p. 9).

Relative to academic proficiency, ChallengeU failed to list any specific goals relative to the Pennsylvania System of School Assessment (PSSA), Pennsylvania Alternative State Assessment (PASA) and the Keystone Exams. Instead, the Application states that “attaining proficiency on the three end-of-course Keystone exams . . . may not be a realistic goal” for its students (Application, p. 9). Instead, the school plans to “identify the available options that make the most sense” and “support each student in their chosen graduation pathway” (Application, p. 9). While Pennsylvania’s Act 158 of 2018 did provide alternative pathways to graduation, planning for a school to subvert this federal accountability requirement entirely is neither a cause for emulation nor is it prudent.

Finally, the Application is modeling its proposed full-time cyber charter school program after other ChallengeU programs in Canada and Virginia that are neither full-time nor stand-alone schools. As ML Wernecke pointed out during public comment at the hearing, the “Virginia pilot, which ChallengeU hopes to emulate here, is a dropout recovery program structured as a partnership with school districts” (Transcript, exhibit 1). ChallengeU’s application, while perhaps laudable, does not provide sufficient evidence to evince that it will be successful as a full-time cyber charter program worthy of imitation by other public schools.

ChallengeU provided evidence that it explicitly does not plan to meet federal ESSA targets for academic proficiency and graduation rate. Additionally, the Applicant has not provided compelling evidence that modeling its full-time cyber charter school after a part-time dropout recovery program will provide an acceptable level of achievement. These findings, in addition to the findings for criteria 1, 2, 3, and 4, demonstrate that ChallengeU is not a model for other public schools, including cyber charter schools. Accordingly, the Application is denied.

Conclusion

The Department must evaluate a cyber charter school application against five statutorily enumerated criteria. Based on the application received on October 3, 2022, public comments, and testimony during the November 16 Hearing, the Department finds multiple, significant deficiencies. These deficiencies, individually, collectively, and in any combination, are cause to deny the application.

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

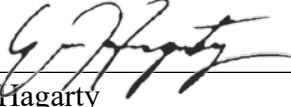
Pennsylvania Department of Education
Office of Chief Counsel
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333

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 an applicant to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). If ChallengeU 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).



Eric Hagarty
Acting Secretary of Education

Date mailed: January 13, 2023