



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION

July 27, 2016

Liz Kohler  
Relay Graduate School of Education  
5700 Wayne Avenue  
Philadelphia, PA 19144

Re: Relay Graduate School of Education  
Application for Approval of Certificate of Authority to Operate an Education Enterprise

Dear Ms. Kohler,

Enclosed please find a copy of the proposed report submitted to me by Christine A. Hawk who I had designated as hearing officer regarding Relay Graduate School of Education's (Relay) Application for Approval of Certificate of Authority to Operate an Education Enterprise in Pennsylvania (Application). The proposed report recommends that Relay's Application be denied.

By letter dated July 8, 2015, Ms. Hawk, advised that Relay could file exceptions with me, as specified in 1 Pa. Code §§ 35.211-212, if the proposed report recommended that its application be denied, or denied in part. Since the proposed report recommends that Relay's Application be denied, Relay may file exceptions to the proposed report as set forth in 1 Pa. Code §§ 35.211-212.

Sincerely,

A handwritten signature in black ink, appearing to read "Pedro A. Rivera".

Pedro A. Rivera  
Secretary of Education, Commonwealth of PA

cc: Kathleen Conn, Ph.D., J.D., LL.M.

Enclosure

**PENNSYLVANIA DEPARTMENT OF EDUCATION  
OFFICE OF THE SECRETARY**

**IN RE: RELAY GRADUATE  
SCHOOL OF EDUCATION : APPLICATION BY A FOREIGN  
: CORPORATION FOR APPROVAL OF  
: CERTIFICATE OF AUTHORITY TO  
: OPERATE AN EDUCATION  
: ENTERPRISE**

**FINDINGS OF FACT**

1. Relay Graduate School of Education (Relay) is an institution of higher education located in and authorized to grant degrees, including the Master of Arts in Teaching (MAT) degree, by the State of New York.
2. On February 28, 2014, Relay submitted an application for approval to establish a physical presence in Pennsylvania to operate an education enterprise to offer courses toward an MAT degree, which would be awarded pursuant to the degree-granting authority issued to Relay by New York.
3. On May 14, 2014, Pennsylvania Department of Education (PDE) staff responded to Relay by e-mail and informed Relay of revisions and additional information that would be required to process the application.
4. On July 1, 2014, Relay submitted a revised application.
5. On August 6, 2014, PDE staff notified Relay by e-mail that the application could not be processed because the program did not contain an adequate research component, faculty qualifications could not be confirmed because faculty had not been identified, and the qualifications established for the faculty search did not include appropriate credentials for masters-level faculty.
6. On August 14, 2014, Relay submitted supplemental materials to address the deficiencies in the application as identified by PDE staff.
7. On August 18, 2014, PDE staff advised Relay that it would be necessary to submit a new application incorporating the supplemental materials and addressing all of the concerns regarding the application.
8. On August 29, 2014, Relay submitted a new application for approval to operate an education enterprise in Pennsylvania to offer courses toward a MAT degree, which would be awarded by the New York degree-granting institution.

9. On October 29, 2014, PDE staff communicated with Relay staff by phone and identified deficiencies in the application related to administrative coverage, adequate faculty, and faculty qualifications.

10. On October 31, 2014, and November 7, 2014, Relay and PDE staff discussed issues regarding the number of required faculty members, and on November 17, 2014, Relay submitted a revised application.

11. On December 12, 2014, PDE staff informed Relay by phone that the faculty information provided did not demonstrate adequate qualifications to teach in a graduate program, and on December 19, 2014, Relay submitted a revised application.

12. On January 24, 2015, PDE published notice of Relay's application in the Pennsylvania Bulletin (Notice), 45 Pa.B. 413 [January 24, 2015], and noted PDE would act on the application without a hearing unless, within 30 days, a written request for a public hearing was filed with PDE, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 or §§ 35.27-35.32.

13. On February 20, 2015, the Association of Independent Colleges and Universities (AICUP) submitted a protest and request for a hearing on the Relay application, and on February 26, 2015, AICUP submitted a petition to intervene.

14. On June 26, 2015, Secretary of Education Pedro Rivera (Secretary), appointed Christine Hawk, Division Chief of Veterans and Military Education, as the hearing officer for this matter.

15. On July 8, 2015, Ms. Hawk notified Relay and AICUP that an informational hearing would be held and that, subsequently, she would issue a proposed report to the Secretary pursuant to Sections 35.202 and 35.205 of the General Rules of Administrative Practice and Procedure (GRAPP), 1 Pa. Code §§ 35.202 and 35.205.

16. On September 30, 2015, Ms. Hawk conducted a pre-hearing conference, in which Relay and AICUP participated, to determine a date for the informational hearing and to discuss submission of pre-hearing and post-hearing statements and any other relevant issues.

17. After considerable communications between Ms. Hawk, Relay, and AICUP regarding a date for the public informational hearing, and after postponement of the initially scheduled hearing due to inclement weather, the informational hearing was held on February 29, 2016.

18. At the public informational hearing, Relay and AICUP were each provided 90 minutes to make their presentations, after which Ms. Hawk posed questions to Relay and AICUP.

19. As requested by Ms. Hawk, Relay and AICUP submitted:

- a. Pre-hearing statements setting forth the testimony that would be provided at the informational hearing;
- b. Responses to each other's pre-hearing statements;
- c. Proposed questions for the hearing officer to ask at the hearing; and,
- d. Post-hearing statements.

## **DISCUSSION**

### *Background*

Relay is an institution of higher education located in, and authorized to grant degrees by, the State of New York. Relay is authorized by the State of New York to grant the Master of Arts in Teaching (MAT) degree. Relay is regionally accredited by the Middle States Commission on Higher Education.

Relay submitted an application to PDE on February 28, 2014, seeking authorization to establish a physical presence in Pennsylvania by operating an education enterprise to offer courses that lead to the award of the MAT degree by Relay's degree-granting institution in New York. Relay did not seek authorization to operate in Pennsylvania as a degree-granting institution that could issue college credits or grant degrees in Pennsylvania.

Between February 28, 2014 and December 18, 2014, PDE staff communicated repeatedly with Relay regarding deficiencies in the application specifically related to the research component required for graduate programs, administrative capacity at the Pennsylvania location, faculty qualifications, and the role and membership of the Pennsylvania Advisory Committee. Relay submitted multiple revisions of the application in efforts to address the deficiencies.

On December 23, 2014, PDE staff sent notice of the filing of the application to the Pennsylvania Bulletin, which published the notice on January 24, 2015 (Notice). 45 Pa.B. 413 [January 24, 2015]. The Notice stated PDE would act on the application without a hearing unless, within 30 days, a written request for a public hearing was filed with PDE, along with a petition to intervene or protest. *Id.* In response to the Notice, AICUP filed with PDE a written protest, request for a hearing, and a petition to intervene. AICUP raised numerous issues with Relay's application and argued Relay failed to comply with various statutory and regulatory provisions.

## *Statutory and Regulatory Provisions<sup>1</sup>*

### Chapter 31 of State Board of Education Regulations

Chapter 31 of the State Board of Education's regulations, 22 Pa. Code § 31.1 *et seq.*, applies to institutions of postsecondary education legally authorized to award college credits and grant degrees in Pennsylvania. "An entity is required to be approved as a postsecondary institution under this chapter to award college credits or grant degrees in this Commonwealth." 22 Pa. Code § 31.1(c). Relay is not seeking approval as a postsecondary institution to award college credits or grant degrees in Pennsylvania.

Relay seeks authorization to operate an education enterprise, which does not grant the authority to award college credits or grant degrees in Pennsylvania. Relay only seeks to offer courses at a location in Pennsylvania for which students can receive college credits toward a MAT degree that would be awarded pursuant to the degree-granting authority issued to Relay by the State of New York. Relay is not seeking approval to operate as a degree-granting postsecondary institution authorized to award college credits or to grant degrees in Pennsylvania. A MAT degree awarded by Relay would not bear the imprimatur of a Pennsylvania postsecondary institution. Therefore, unless otherwise specified, review of Relay's application does not fall within the purview of Chapter 31.<sup>2</sup>

However, section 31.2 of the State Board of Education's regulations, 22 Pa. Code § 31.2, provides definitions that apply throughout Subpart C of the regulations, which is comprised of various chapters relating to higher education. Pursuant to section 31.2, an education enterprise is defined as,

An educational activity in this Commonwealth that is sponsored by a foreign corporation and for which college credits or continuing education units are awarded, continuing professional education is offered (culminating in awards

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<sup>1</sup> AICUP raised issues about Relay's compliance with regulatory provisions under Chapters 49 and 354 of the State Board of Education's regulations. 22 Pa. Code Chapters 49 and 354. However, those regulations pertain to Certification of Professional Personnel and Preparation of Professional Educators. Relay received approval on May 16, 2013, to offer post-baccalaureate, non-degree, educator preparation training in Pennsylvania. Relay is now approved to offer educator preparation training in Pennsylvania in Biology, Chemistry, English, General Science, Grades 4-8, Grades PK-4, Mathematics, Physics, Principal, and Social Studies. However, the authority granted to Relay to offer this educator preparation training was granted by a separate and distinct division within PDE and through a separate and distinct process, and that approval is not at issue here.

In its application to operate an education enterprise, Relay is not seeking authority to operate certification preparation programs in Pennsylvania, or to offer programs that lead to certificates for professional positions. Relay is seeking approval to offer courses in Pennsylvania that can lead to the award of a Master of Arts in Teaching degree that would be awarded pursuant to authority to award degrees provided to Relay by the State of New York. Therefore, Chapters 49 and 354 are not relevant to the review of Relay's current application.

<sup>2</sup> As discussed later in connection with Chapter 36 of the State Board of Education regulations, 22 Pa. Code Ch. 36, Sections 31.31, 31.71 and 31.72 are applicable because they are specifically referenced in Chapter 36, which is applicable to the review of Relay's application. Additionally, section 31.14(f), which pertains to financial records, is applicable because it specifically pertains to an institution having foreign corporation status.

such as Continuing Education Unit (CEU), Continuing Medical Education (CME) or Continuing Professional Education (CPE), or tuition or fees are charged or collected.

22 Pa. Code § 31.2.

A foreign corporation is defined as,

A corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate an education enterprise in this Commonwealth under 15 Pa.C.S. Part II, Subparts B or C, and 24 Pa.C.S. Chapter 65.

22 Pa. Code § 31.2.

### Chapter 65 of the Public School Code

Although a foreign corporation is defined as an entity approved to operate an education enterprise in Pennsylvania under Pennsylvania corporation law and Chapter 65 of the Public School Code, 24 Pa.C.S. §§ 6501 *et seq.*, sections of Chapter 65 are not applicable in the review of Relay's application, unless otherwise specified.<sup>3</sup> The applicability of Chapter 65 is stated as follows:

This chapter applies to, and the word "institution" in this chapter means, any institution which applies to itself, either as part of its name or in any other manner, the designation of "college," "university" or "seminary" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed by the State board.

24 Pa.C.S. § 6501(a).

While Relay does not apply to itself, as part of its name, the designation of "college," "university" or "seminary," Relay does designate itself as a "college" or "university" in other manners, which include its approval as a degree-granting institution in New York, its accreditation by the Middle States Commission on Higher Education, and its advertising. Therefore, Relay is an institution as that term is defined by Chapter 65.

In particular, section 6503 of the Public School Code provides that the designation of "college," "university" or "seminary" cannot be used as part of a name, or in any other manner, to give the impression that an entity is an educational institution conforming to the standards of the State Board of Education, unless the institution has received a certificate of authority from PDE authorizing the use of such designation. 24 Pa.C.S. § 6503. Thus, Section 6503 is

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<sup>3</sup> As discussed later in connection with Chapter 36 of the State Board of Education regulations, 22 Pa. Code Ch. 36, section 6506(a) of the Public School Code, 24 Pa.C.S. § 6506(a), is applicable because it is specifically identified in Chapter 36 as the basis by which an institution operating an education enterprise can have its authority to operate revoked. 22 Pa. Code § 36.8(i).

applicable to the review of Relay's application by which it is seeking a certificate of authority to operate an education enterprise in Pennsylvania. However, other sections of Chapter 65 that specifically reference approval to award degrees are not relevant to the review of Relay's application because Relay is not applying for authority to award degrees in Pennsylvania. That authority has already been granted by the State of New York.<sup>4</sup>

### Chapter 40 of State Board of Education's Regulations

Chapter 40 of the State Board of Education's regulations, 22 P. Code Ch. 40, is titled "Institutional Approval." The scope of Chapter 40 is stated as follows:

This chapter and Chapter 31 (relating to general provisions) apply to approval of an institution as an independent junior college, college, seminary or university, or for status as a State System, State-related or State-aided institution for the purposes of awarding college credits and granting degrees.

22 Pa. Code § 40.1.

Relay is not an institution seeking approval as a college or university for the purpose of awarding college credits and granting degrees. Relay has the authority from New York to award college credits and grant degrees, and is not seeking such authority from Pennsylvania through its application to operate an education enterprise. Therefore, Chapter 40 is not relevant to the review of Relay's application.

### Chapter 42 of State Board of Education's Regulations

Chapter 42 of the State Board of Education's regulations, 22 Pa. Code Ch. 42, is titled "Program Approval." The scope of Chapter 42 is stated as follows:

This chapter and Chapter 31 (relating to general provisions) apply to approval of all of the following:

...

(4) Additional programs of a foreign corporation approved to operate at a specific site in this Commonwealth. A program having prior approval may be transferred to another site only after receiving approval of the Department.

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<sup>4</sup> Although the definition of foreign corporation references Chapter 65, Chapter 65 is not always applicable to the review of an application seeking approval to operate an education enterprise because of the definition of education enterprise. For example, the International Association of Electrical Inspectors (Association) is an entity authorized in another state, and it sought authority to sponsor an educational activity in Pennsylvania for which continuing professional education is offered culminating in a Continuing Professional Education (CPE) award to electrical inspectors. This falls within the definition of an education enterprise. However, inferring that Chapter 65 applies to the Association would require, *inter alia*, that the Association have a protective endowment of \$500,000, and a faculty of 8 full-time professors, even though the Association does not use the designation of "college", "university" or "seminary" in its name, or in any other manner, and does not seek to award degrees in Pennsylvania. Such an interpretation would be ludicrous.

22 Pa. Code § 42.1(4).

Relay is seeking approval to operate an education enterprise at a location in Pennsylvania. Because Relay has not yet been approved to operate an education enterprise at a location in Pennsylvania, Relay is not seeking, through its application, to be approved to operate additional programs. Therefore, Chapter 42 is not applicable to the review of Relay's application.

### **Chapter 36 of State Board of Education's Regulations**

Chapter 36 of the State Board of Education's regulations, 22 Pa. Code Ch. 36, is titled "Foreign Corporation Standards." The scope and purpose of Chapter 36 is stated as follows:

This chapter applies to the approval and operation of an educational enterprise by a foreign corporation in this Commonwealth. This chapter sets forth the standards required for foreign corporation status.

22 Pa. Code § 36.1.

As previously stated, Relay is seeking approval to operate an education enterprise at a location in Pennsylvania. Therefore, Chapter 36 is applicable to the review of Relay's application.

#### ***Relay's Application Deficiencies***

In reviewing Relay's application pursuant to Chapter 36, deficiencies have been identified that result in the application being denied.

Relay failed to demonstrate a sufficient understanding of the requirements for approval to offer courses through an education enterprise that would lead to a MAT degree.

Section 36.2 provides:

The education enterprise shall be consistent with the statement of philosophy and objectives and equivalent to the commitment to similar programs conducted by the corporation on its main campus.

22 Pa. Code § 36.2.

In its application, Relay states its mission is: "[T]o teach P-12 teachers to develop in all students the academic skills and strength of character needed to succeed in college and in life." Further details in the statement of philosophy focus on teacher preparation. Relay's four-page statement of philosophy only mentions the MAT degree once, and that is in reference to a goal of disproving the evidence in academic literature that the MAT degree does not correlate with improved teaching.

Relay also states on page 1 of its April 8, 2016 written response to information provided at the hearing that: "Relay is committed to preparing educators for Philadelphia who can serve in high-needs urban schools." During the hearing, Ms. Mayme Hostetter, Dean of Relay, stated: "Educating and preparing teachers and school leaders is all that we do at Relay. Ours is exclusively a teacher preparation program . . ." N.T. p. 47.<sup>5</sup> Mr. Norman Atkins, President of Relay, testified at the hearing that some teacher preparation programs have been found to "[f]ail to graduate high quality and well-prepared new teachers for today's classrooms including the poorest and high minority schools." N.T. p. 66. Mr. Atkins testified that it is Relay's mission to be responsive to this call to prepare teachers and principals in preparation programs to perform effectively in the poorest and high-minority schools. N.T. pp. 66-67. Relay's hearing testimony and materials emphasized the national recognition Relay has received for educator preparation.

Relay's application consisted of a proposal to establish a physical presence in Pennsylvania to offer courses that lead to an MAT degree awarded through authority granted to Relay by New York. However, Relay focused the information in support of its application on its educator preparation program. This focus evidences Relay's inability to differentiate between the requirements for approval to offer courses through an education enterprise that would lead to a MAT degree and the requirements for approval to offer a post-baccalaureate teacher preparation program.

Relay failed to provide evidence that it will employ a sufficient number of qualified personnel for operating the educational enterprise in Pennsylvania.

Section 36.3(e) requires:

Appropriately qualified, full-time administrative or supervisory personnel, or both, shall be employed and delegated responsibility for operating the education enterprise in this Commonwealth. The employees, the number depending on the size of the operation, shall be available onsite for academic advisement and consultation with enrollees and prospective enrollees.

22 Pa. Code § 36.3(e).

Relay's application indicates thirteen (13) individuals will be engaged as administrative personnel for the operation of the Pennsylvania location, but eleven (11) of those individuals will be located at the New York campus and will have part-time, off-site responsibility for the Pennsylvania site. Neither of the two (2) individuals identified by Relay as administrative personnel with on-site responsibility for the operation in Pennsylvania has experience in higher education administration. Additionally, information in the application indicates one of those individuals will be the dean, and will be both a "full-time" administrator and a "full-time" faculty member at the Pennsylvania location. Relay failed to provide sufficient evidence that the two (2) individuals located in Pennsylvania are appropriately qualified to operate the education enterprise. Relay also failed to provide sufficient information to show that two (2) on-site administrators will be adequate to provide academic advisement and consultation at the Pennsylvania site based on the size of the operation.

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<sup>5</sup> "N.T." refers to testimony presented at the February 29, 2016 public informational hearing.

Relay failed to provide sufficient evidence that the proposed members of the advisory committee are appropriately qualified.

Section 36.3(c) requires that an education enterprise that proposes to offer courses creditable to a degree establish a program advisory committee in Pennsylvania that consists of at least three (3) appropriately qualified Commonwealth residents to assist the corporation in establishing quality off-campus educational activities, and to conduct periodic quality assessments. 22 Pa. Code § 36.3(c).

Relay states in its application that the role of its advisory committee is to “[a]pprove Relay GSE’s curriculum, approve Relay GSE’s institutional policies, and conduct periodic assessments.” *See, Advisory Committee*, pg. 1. However, the members of the program advisory committee proposed by Relay do not have a background in higher education administration or in the assessment of higher education program quality. Additionally, Relay did not indicate in its application that the advisory committee has a role in assisting Relay with the establishment of off-campus educational activities. Therefore, Relay has failed to provide sufficient evidence that the proposed members of the advisory committee are appropriately qualified to meet the requirements of section 36.3(c).

Additionally, AICUP raises concerns that two of the three proposed advisory committee members are employed at Mastery Charter School, which is the proposed site for the operation of the Relay education enterprise. While AICUP may question the independent advisory capacity of those proposed members, section 36.3(c) only prohibits advisory committee members from being employed by the corporation. Section 36.3(c) would not preclude the appointment of those two proposed members because they are not employed by Relay. However, the employment of these two members by the entity that is the site where the education enterprise will operate does create concerns about their independent advisory capacity especially because, as noted above, they lack a background in higher education administration and in assessing the quality of a higher education program.

Relay did not present sufficient evidence that the programs, courses and offerings of the education enterprise include the study of research techniques and results.

Section 36.4 (c) requires that graduate programs, courses and offerings include the study of research techniques and results. *See* 22 Pa. Code § 36.4(c).

Relay attempted to address concerns regarding the study of research techniques and results with information that the students taking courses in the education enterprise will be taught assessment techniques to measure student learning in their classrooms. Student assessment is a skill required for classroom teachers, but it is not a form of academic research, which requires the review and citation of academic literature and the application of quantitative and qualitative analysis.

Relay indicates that the Master’s Defense Seminar includes research and data analysis as an objective. Under Strategic Goal #1 in the Statement of Objectives provided in its application, Relay indicates that the Master’s Defense Seminar is a requirement for graduation and that

students must demonstrate one-year's growth in student learning as a graduation requirement. Also, in response to the hearing officer's question about research, Ms. Billie Gastic testified that the Master's Defense Seminar is the cornerstone of the program. However, this is not consistent with the application, which lists the Master's Defense Seminar as an elective component of the course entitled, "Student Growth and Achievement." In addition, Relay did not provide details about this module. Therefore, Relay not only provided conflicting information about the Master's Defense Seminar, but also failed to provide sufficient evidence that courses provided in the education enterprise include the study of research techniques and results.

Relay failed to provide sufficient evidence of approved curricula.

Pursuant to section 36.4(a), curricula "shall have the approval of the education program advisory committee." 22 Pa. Code § 36.4(a).

The minutes of the meeting of the program advisory committee indicate the advisory committee took action to approve "the Relay GSE curriculum for all MAT degrees and M.Ed. degrees offered or pending in the State of New York." *See Advisory Committee*, p. 1. It is not clear that the advisory committee was approving curricula to be offered in Pennsylvania because Relay is not seeking approval to offer courses in Pennsylvania pertaining to all M.Ed. degrees offered or pending in New York. Thus, there is no evidence that the committee took action to approve the specific curricula proposed to be offered in Pennsylvania.

Relay failed to demonstrate compliance with requirements applicable to the faculty for the Pennsylvania location.

Section 36.5 (a) requires: "[F]aculty [of the Pennsylvania site] shall have experience and qualifications which are no less than those required of faculty at the parent institution and which are appropriate for the level of instruction." 22 Pa. Code § 36.5(a). Section 36.2 requires an education enterprise to be "equivalent to the commitment to similar programs conducted by the corporation on its main campus." 22 Pa. Code § 36.2. Section 36.5(c) states: "Guidance of thesis or dissertation studies shall be the responsibility of faculty members with appropriate specialization." 22 Pa. Code §36.5(c).

Relay's application includes credentials for three (3) faculty members, only one (1) of whom is designated to be located in Pennsylvania. The single on-site, Pennsylvania faculty member is credentialed with a master's degree and a law degree. According to a chart in its application under *Faculty*, Relay also proposes to hire seven (7) additional faculty members, with master's degrees, and another faculty member for the position of Assistant Professor of Practice, who will preferably hold a Ph.D. However, also under *Faculty* in the application, Relay provides a job posting for the position of Assistant Professor of Practice, and the qualifications include a master's degree, with a terminal degree preferred. A terminal degree can include a degree such as Master of Fine Arts. Therefore, the qualifications for the position as stated in the job posting and the information about the position as stated in the related chart are confusing and inconsistent.

Additionally, Relay's pre-hearing statement dated December 23, 2015, indicates on page 10 that faculty are employed based on expertise and years of experience. There is no reference to academic credentials. In accordance with generally accepted academic practice, the appropriate level of instruction for institutions offering graduate degrees is for faculty, in most instances, to hold the highest degree in the field. It is also not evident that the credentials for the faculty at the Pennsylvania institution are equivalent to the experience and qualifications of faculty at the parent institution in New York.

Only one of the faculty members designated to be on-site at the Pennsylvania location has been identified, and that person is qualified in education at the master's degree level. In response to the hearing officer's question about how Relay will meet the standards for faculty and leadership in Pennsylvania, Ms. Mayme Hostetter testified that Relay strives "to find faculty members who are doctorally prepared, who are excellent practitioners themselves, and who are involved in scholarship to some degree." N.T. p. 73.

The hiring plans set forth in the application include hiring seven of eight faculty members to be qualified at the master's degree level, making no reference to the doctorate level, or involvement in scholarship. The master's degree is not usually considered to be adequate qualification to guide thesis studies. Relay's written post-hearing statement dated April 8, 2016, further confirms that Relay intends to hire faculty based on experience as a classroom teacher rather than on academic credentials.

Ms. Mayme Hostetter further testified at the hearing that "at no point were we asked to identify the faculty members who would be teaching here in Pennsylvania, and so we did not." N.T. p. 51. The application form includes a section dedicated to faculty and qualifications, and states that the applicant is to "[l]ist faculty that will teach this offering in Pennsylvania." The form also requires applicants to provide a *vitae* for each faculty member. Additionally, the number and qualifications of faculty was a major theme in communications between PDE and Relay between February 28, 2014 and December 18, 2014.

Section 36.5 (c) states: "Graduate programs shall be planned by faculty members and approved by a faculty committee." 22 Pa. Code § 36.5(c).

Only one of the faculty members designated to be on-site at the Pennsylvania location has been hired and the other two faculty members designated in the application are upper-level administrators at Relay. The application described the curricular approval process as "centrally produced" and "centrally designed," indicating that "[b]y having a centrally designed curriculum, Relay GSE reduces the work associated with planning high impact lessons. . . . Reducing this work is critical as faculty members with teaching responsibilities fulfill a more clinical role, acting as advisor and coach, as needed, for candidates." *See Academics*, p. 1. Thus, Relay failed to show that its Pennsylvania-based faculty planned the graduate programs or that the Pennsylvania-based faculty committee approved the graduate programs.

Section 36.5(b) requires qualified faculty adequate to support a teaching load that meets generally accepted standards for institutions of higher education. 22 Pa. Code § 36.5(b). Section

36.5(c) also requires that, in addition to classroom instruction, faculty must “be available for academic advisement and interaction with students.” 22 Pa. Code § 36.5(c).

As noted previously, Relay’s application includes the name and credentials of one faculty member who is also listed as a full-time administrator, two faculty members listed as full-time, who also serve full-time as senior administrators at the main campus, one full-time faculty member who has not been hired, and seven part-time faculty positions, which have not been filled. Thus, Relay has not shown that it will employ adequately qualified faculty for the education enterprise that will comply with accepted standards for teaching load, and who will be available not only for classroom instruction, but also for student academic advisement and student interaction.

Based on all of the above, Relay failed to show compliance with faculty requirements in section 36.5.

Relay failed to demonstrate appropriate admission standards for its proposed program.

Section 36.6 requires that admission standards be comparable to those described in section 31.31. 22 Pa. Code § 36.6. Section 31.31 provides: “Published admission standards shall be so structured that they result in the selection, admission and retention of those qualified to accomplish work at the level at which the program is offered.” 22 Pa. Code § 31.31.

The admission standards for the proposed Relay program include having secured employment as a teacher and holding a bachelor’s degree with a grade point average of at least 3.0. However, being employed as a teacher and having a bachelor’s degree with a grade point average of at least 3.0 are not standards that show one is qualified to accomplish work at the master’s level. Relay did not identify that any specific coursework, standards, or test scores have been established to demonstrate the academic background and qualitative and quantitative skills and analysis required as a foundation for admission. Thus, Relay has not met the requirements of section 36.6.

Relay did not demonstrate sufficient availability of library and research resources at its Pennsylvania location.

Section 36.7 (b) states: “Library and research resources shall be provided onsite by the education enterprise or by contract, or both ... in accordance with standards of professional associations and learned societies.” 22 Pa. Code § 36.7 (b). Section 36.7(c) requires the library, learning and research resources be “sufficient in quality, number and currency to serve the program, course or offering at the required level of instruction.” 22 Pa. Code § 36.7(c).

Relay proposes to provide students with access to a library that is 100% on-line, and will not provide access to any academic resources that have not been digitized. Primary resources that constitute the foundation of the study of public education were published prior to digitalization and Relay did not provide evidence that all these resources are available in an electronic library. The application also does not list the availability of resources in research methods or statistics and, as noted previously, the study of research techniques and results is

required to be a component of the program in accordance with section 36.4(c). The lack of such resources further exposes the inadequacy of Relay's education enterprise, particularly pertaining to the study of research techniques and results.

### *Issues Raised by AICUP*

AICUP raised issues about Relay's application under Chapter 65 of the Public School Code, and under Chapters 31, 36, 40, 42, 49, and 354 of the State Board of Education's regulations. 24 Pa.C.S. Ch. 65; 22 Pa. Code §§ 31, 36, 40, 42, 49, and 354. The issues AICUP raised concern the evaluation of coursework and experience for graduate credit, whether the program was designed to meet graduate level instruction, and whether the application provided adequate detail to meet regulatory requirements for programmatic quality. Additionally, AICUP raised issues about the required number of minutes of instruction in each hour, the minimum number of hours in each credit, and the award of credit based on competency rather than hours of instruction. However these matters relate to the provisions of Chapter 65 of the Public School Code, and/or Sections 31, 40, 42, 49, and 354 of the State Board of Education's regulations, which, as stated previously, are not applicable to this matter unless noted otherwise.

AICUP also raised issues related to professional standards in education, educator certification, Pennsylvania Core Academic Standards, Eligible Course Content, and the Standard Aligned System. These issues relate to the preparation of teachers, which, as noted previously, is not relevant to the review of Relay's application to operate an education enterprise to offer courses that lead to a MAT degree that would be issued from New York.

AICUP raised concerns related to program duplication and need and demand for additional MAT programs in the region. PDE staff had not raised this issue with Relay when discussing specific deficiencies of the application because, as noted previously, sections of Chapter 65 of the Public School Code that specifically pertain to approval of an institution to award degrees are not applicable to the review of Relay's application. However, for the reasons previously noted in this decision, section 6503 is applicable to the review of Relay's application.

In particular, section 6503(d)(3) provides that in order to issue a certificate of authority PDE must find and determine that,

The educational needs of the particular locality in which the institution is to be situated and of the Commonwealth at large are likely to be furthered by the granting of the application.

24 Pa.C.S. § 6503(d)(3). Relay discussed the lack of educators prepared to teach in high-need urban schools, such as in Philadelphia. However, receipt of a MAT degree would not necessarily resolve this issue. Additionally, with other educational institutions offering programs culminating in receipt of a MAT degree, Relay failed to adequately explain how the granting of its application would further the educational needs of educators in the Philadelphia area or in the Commonwealth.

AICUP raised concerns that in using students for research purposes, Relay did not show evidence of compliance with ethical and safety standards in its use of video recording. Although this is not an issue to be reviewed under Chapter 36 or relevant provisions of other chapters of the State Board of Education's regulations, in response to the concerns raised by AICUP, Relay provided information to demonstrate compliance with these standards. The information provided by Relay indicates that permission is obtained before videotaping of students occurs.

However, there is some concern about Relay's statement that videotaping is exempt from Institutional Review Board (IRB) review because it is conducted as an in-class assignment. The Statement of Objectives provided with the application calls into question the accuracy of this statement. On page 6, Priority #2B, the Statement of Objectives indicates the videos will be stored in an on-line database and made available to professors and prospective employers. Although providing information to ensure appropriate standards regarding the videotaping of students are followed is not a requirement of the applicable regulations and is not required in the standard application form, Relay should ensure that its practices are in compliance with ethical and safety standards.

AICUP argued that the presentation of the unapproved minutes of the Board of Trustees demonstrating approval of the application for education enterprise status in Pennsylvania represented a misrepresentation of the approval. The draft minutes were originally presented prior to the next meeting of the Board of Trustees for the vote to adopt. Relay subsequently provided the adopted minutes, and therefore, addressed this concern.

AICUP argued that Relay's status as an accredited institution is in question because the Middle States website lists it with a note that no internship or residency is included. AICUP cited this reference to residency as a contradiction with the residential nature of the program as opposed to distance education. As used in this matter, "residency" and "distance education" have different meanings and are not contradictory. The Middle States site uses the term "residency" in terms of an internship or medical residency, which is not applicable to Relay. Relay's application is for a program to be offered at a physical location in Pennsylvania, which constitutes "residency" as opposed to "distance education" because of physical presence in Pennsylvania. Thus, there is no contradiction in these two citations using this homonym.

AICUP argued that the Relay curriculum lacks adequate rigor for a master's degree program and questions whether the courses offered in the alternative certification program are graduate-level courses.<sup>6</sup> The level of academic rigor of approved, accredited programs in other states is not a component of the review process for an education enterprise as established by Chapter 36 of the State Board of Education regulations, which rely on the approval and accreditation process for the confirmation of academic rigor. Thus, this concern is outside the scope of this review of Relay's application and of applicable statutory and regulatory provisions.

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<sup>6</sup> As stated previously, the alternative certification program is not relevant to the analysis of whether to approve Relay's application to operate an education enterprise in Pennsylvania. The certification program is a separate and distinct program with its own approval criteria.

AICUP also raised concerns about the delineation of the delivery method used for each course and the unifying scope and sequence of courses. Once again, these concerns are outside the scope of this review, which is to determine if this approved and accredited program can be offered at a Pennsylvania location. For approval of an education enterprise, applicable Pennsylvania statutory and regulatory provisions do not establish a disclosure requirement for the delivery mode, or the scope and sequence of courses.

AICUP raised questions about whether requirements for academic honesty are a component of the program and approved as a policy for the education enterprise. There is no statutory or regulatory requirement related to an academic honesty policy for an education enterprise. While the Pennsylvania advisory committee must approve the policies of the enterprise, there are no requirements for specific types of policies. *See 22 Pa. Code § 36.3(d).*

AICUP raised questions about Relay's presentation of syllabi and curricular materials in draft form, or as being under development. The presentation of syllabi and curricular materials in draft form or under development is not uncommon in higher education as faculty has a great deal of autonomy in creating and finalizing syllabi. It is standard practice for PDE to accept applications with certain documents in draft form, or as samples, as long as the application demonstrates compliance, and the delivery does not deviate substantially from the application. The presentation of draft documents is not grounds for denial of Relay's application.

## **CONCLUSION**

PDE recognizes the commitment Relay has demonstrated to establish an education enterprise in Pennsylvania. For the reasons previously stated, Chapter 65 of the Public School Code, and Chapters 31, 40, 42, 49, and 354 of State Board of Education regulations referenced in the AICUP arguments do not apply to this application for approval of an education enterprise, unless otherwise noted. Therefore, many of the detailed arguments provided by AICUP are not a basis for PDE to deny the Relay application. Nevertheless, as explained in detail above and summarized below, there are deficiencies in Relay's application that result in the denial of Relay's application to operate an education enterprise by which Relay would offer courses that lead to the award of a MAT degree through Relay's degree-granting authority in New York.

Relay has not demonstrated an adequate number of appropriately qualified administrators to oversee the Pennsylvania location. Relay has not demonstrated that the program contains an adequate academic research component. The application does not show adequate faculty to operate the education enterprise, and the proposed faculty is not appropriately qualified to provide master's level instruction and guide thesis study. The curriculum is centrally designed and produced, and Pennsylvania faculty has not had an appropriate role in curriculum development. Admission criteria are not adequate to ensure that students are appropriately prepared to succeed. Library resources do not make adequate non-digitized resources available, and there is nothing showing the availability of resources in research methods or statistics. The Pennsylvania advisory committee is not adequately qualified to guide the enterprise and has not approved the Pennsylvania initiative or had a role in developing the initiative. Relay failed to adequately explain how the granting of its application would further the educational needs of educators in the Philadelphia area or in the Commonwealth, particularly since there are other

educational institutions offering programs culminating in receipt of a MAT degree. The program, as outlined in the hearing and in written materials, does not correspond to the delivery and content described in the application.

Based on all of the above, PDE denies Relay Graduate School of Education's application to operate an education enterprise in Pennsylvania to offer courses for academic credit toward the awarding of a MAT degree through Relay's degree-granting authority in New York.