

Charter Schools

24 P.S. §17-1701-A

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PURPOSE

This Basic Education Circular (BEC) is meant to serve as a guide for charter schools, school districts, parents, and students. The Charter School law, known as Act 22 of 1997, is part of the Pennsylvania School Code, cited as 24 P.S. Article XVII-A. [Copies of Act 22 of 1997 may be found in libraries or via this link.](#)

Although much of the guidance provided in this BEC is also relevant to cyber charter schools, issues and questions particular to cyber charter schools are also addressed in BEC 24 P.S. §17-1741-A, Cyber Charter Schools.

As enunciated in Act 22 of 1997, the Commonwealth's charter school system is intended to:

- "Improve pupil learning;
- "Increase learning opportunities for all pupils;
- "Encourage the use of different and innovative teaching methods;
- "Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- "Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- "Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems."

At the heart of these tenets is the idea that charter schools will serve as laboratories of innovation on behalf of all of Pennsylvania's schools. A successful charter school system must be grounded in accountability for academic success with an emphasis on developing and broadly disseminating best practices, in the context of ensuring the flexibility and innovative atmosphere that are inherent to charter schools.

This document is guidance for charter schools and school districts. The best way for public school entities to apply the law and these rules is to act cooperatively for the benefit of all school children, regardless of where the child enrolls. No set of rules can substitute for a caring and cooperative approach to public education.

TOPICS

1. Application Process and Charter Issues

- *Conversion*
- *Regional Charter School*
- *Charter School Appeal Board*

2. Charter Schools – Board of Trustees

3. Oversight
 - *Working Cooperatively*
 - *Annual Reports*
 - *Records Access*
 - *Facilities Access*
 - *Non-Chartering School District*
4. Accountability
 - *No Child Left Behind and the Pennsylvania Accountability System*
 - *Strategic Planning and School Improvement*
5. Renewal or Closure of Charter Schools
 - *Renewal Procedures*
 - *Nonrenewal*
 - *Immediate Revocation*
 - *Revocation or Closure*
6. Attendance Issues
 - *Enrollment*
 - *Kindergarten*
 - *Compulsory Attendance*
 - *Students Institutionalized from a Charter School*
 - *Expelled Students*
7. Discipline
 - *Weapons Possession*
 - *Discipline Policies*
 - *Due Process*
8. Transportation
9. Extracurricular Activities
10. Payments to Charter Schools
 - *Charter School Responsibility*
 - *School District Responsibility*
 - *School District Payments to Charter Schools*
 - *PDE Payments to Charter Schools*
11. Master Agreement and Major Grant Programs
12. Facilities
 - *Borrowing*
 - *Building Construction Reimbursement*
 - *Sale vs. Lease*
 - *Separate and Distinct Entity*
 - *Construction of a Facility*
 - *Renovation of a Facility*
 - *Lease of a Facility*
13. Certification of Charter School Teachers

14. Health Care Benefits

15. Special Education

- *Early Intervention*

16. Charter Schools and Career and Technical Education

1. Application Process and Charter Issues

Individuals interested in establishing a new, conversion or regional charter school must complete a charter application and submit it to the local school district board of directors where the public charter school is to be located per §1717-A(c). The Charter School Law provides specific timelines for the application process. Charter school applications are approved or are denied by a majority vote of the chartering district's board of school directors. It is the responsibility of a charter applicant to demonstrate how the proposed charter school will enhance student learning opportunities and offer substantively unique and innovative educational options for the community. Each chartering district may identify criteria for the evaluation of a charter application.

Obtaining a Charter from a local school district board of directors grants the recipients permission to operate a public charter school. The Charter is an agreement or contract between the school district and an incorporated entity, known as a charter school. The law does not authorize provisional, temporary, interim or any other type of charters. PDE is authorized to award federal grants only to charter schools with executed charters.

A charter school is required to provide a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours per school year of instruction at the elementary level or nine hundred ninety hours (990) per school year of instruction at the secondary level. Charter schools may not hold regular instructional sessions on Saturdays unless the school calendar approved by the Board of Trustees has designated Mondays as a holiday for the entire school year.

A charter school must demonstrate that it has sustainable support by teachers, parents, other community members and students in order to be granted a charter. CAB has defined sustainable support as support sufficient to sustain and maintain the proposed charter school as an on-going entity." *See, In re: Ronald H. Brown Charter School*, No. CAB 1999-1, p. 18. "The indicia of demonstrated, sustainable support is to be measured in the aggregate and not by the individual categories from which that support is to be measured" and "failure to demonstrate strong support in any one category is not necessarily fatal to charter school application." *Brackbill v. Ron Brown Charter School*, 777 A.2d 131, 138 (Pa. Commw. 2001). Sustainable support can be demonstrated by signed petitions of support, letters of support, testimonials of support or in other concrete ways with a majority of persons evidencing such support residing in the school district in which the charter school will be located, or residing within the school districts incorporating a regional charter school application. However, this does not mean that the support must be in the form of enrollments, or pre-enrollments, or commitments to sending one's children to the charter school.

Conversion

An existing public school or portion of an existing public school may become a charter school through a conversion process which requires more than 50% of the teaching staff

and parents to sign a petition in favor of conversion to a charter school, per §1717-A. Teaching staff is defined as professional educators who are responsible for providing classroom instruction and who teach more than half time in the building. Each family that has at least one pupil attending the school is entitled to sign the petition one time. In order to ensure fairness by both groups, the building principal and a representative of the charter applicant group should oversee the process.

If a charter school is created through the conversion process, the chartering district must redraw attendance zones or make other school assignment provisions so that students who do not wish to attend the charter school are assigned elsewhere.

Regional Charter School

A charter school applicant may apply to a single chartering district or, under the regional charter school provisions of the law, to multiple school districts. Though the decision rests with the charter applicant, the Department believes that the intent of the law is for charters to be largely aligned with the population the schools serve. A charter school that intends to realistically enroll the large majority of its students from one school district should likely only apply to that school district for a charter, even if a small proportion of the charter school students are to come from other districts. A charter school that intends to realistically enroll a significant proportion of its students – for example, one-half of the student population – from a second school district, however, should likely be established as a regional charter school, so that the districts that send the large majority of the school's students share oversight responsibilities.

See Charter Application Evaluation Criteria developed from the law to assist school districts in the review process of applications for charter schools.

Charter School Appeal Board

When a Charter applicant is denied a Charter by the local board of school directors, the applicant may appeal the denial to the CAB. The Charter School Appeal Board (CAB) may reverse the decision of a local board of school directors that denied a charter to an applicant. Whether or not the local school district board of school directors fail to sign the charter after CAB's reversal of its denial of a charter, the local board of school directors remains responsible for the oversight of the charter school, including decisions whether to renew, non-renew or revoke the charter.

The Pennsylvania Supreme Court has held that "Although the Charter School Law implicitly recognizes that conditions may be placed on the grant of a Charter, such conditions must be consistent with the statutory provisions. *West Chester Area School District v. Collegium Charter School*, 571 Pa. 503, 812 A.2d 1172 (2002);). Therefore, restrictive conditions imposed by a school district, purportedly to enable the district to exercise oversight over the charter school, are invalid if they exceed the provisions contained in the Charter School Law.

2. Charter School Boards of Trustees

As public officials, members of the Board of Trustees of a charter school are subject to the provisions of the Public Official and Employee Ethics Act, 65 P.S. §1101-1113 ("Ethics Act") and are required to file Statements of Financial Interest & Code of Conduct by May 1 each year. In addition, as members of the Board of Trustees they have legal obligations under the Charter School Law and the Public School Code. A Board of Trustees has a responsibility

to be a good and effective steward of public money, and it needs to provide independent governance of the charter school's administrators.

3. Oversight

Working Cooperatively

Chartering school districts and charter schools must work cooperatively to ensure that charter schools are operating in a fiscally responsible manner and are providing quality educational services to students. Chartering school districts should provide balanced oversight that allows the charter school independence but assures that the charter school students are receiving a quality educational program. Charter schools should provide chartering school districts with sufficient and accurate information for the chartering districts to fulfill their oversight responsibilities.

Though the primary responsibility for success or failure rests with the charter school leadership, the chartering school district also has an important role. To better define this role, the National Association of Charter School Authorizers has developed a set of "Principles for Quality Charter School Authorizing." These principles specify that the authorizing district should:

- "approach authorizing deliberately and thoughtfully with the intent to improve the quality of public school options;
- "support and advance the purposes of charter school law;
- "be a catalyst for charter school development to satisfy unmet educational needs;
- "strive for clarity, consistency, and transparency in developing and implementing authorizing policies and procedures;
- "be a source of accurate, intelligible, performance-based information about the schools they oversee;
- "be responsible not for the success or failure of individual schools, but for holding schools accountable for their performance;
- "use objective and verifiable measures of student achievement as the primary measure of school quality; and,
- "make the well-being of students the fundamental value informing all decision-making and actions."

Annual Reports

Charter schools are required to submit an Annual Report to the chartering school district(s) no later than August 1 of each year. The Secretary of Education will develop the Annual Report format.

http://www.portal.state.pa.us/portal/server.pt/community/charter_schools/

A copy of the Annual Report, as sent to the chartering school district, must also be sent to the Pennsylvania Department of Education, Bureau of Community and Student Services, Charter Schools.

Annual Reports are intended to provide data-driven analysis of a charter school's educational and fiscal operations. Annual reports that do not provide sufficient information in these areas, identifying a charter's current status and improvement plan with measurable goals, will be considered incomplete. Annual reports that are repeatedly not submitted to the *chartering school district*, are submitted past the August 1 deadline, or are incomplete, may constitute a material violation of the charter.

Records Access

Chartering school districts are to have ongoing reasonable access to records and facilities of the charter school to ensure that charter schools are in compliance with their Charters and the law, and that requirements for testing, civil rights and student health and safety are being met. 24 P.S. §17-1728-A(a).

Ongoing reasonable access to a charter school's records means that the chartering school district shall have access to records including, but not limited to, financial reports, financial audits, aggregate standardized test scores without student identifying information, and teacher certification and personnel records. Charter schools and school districts shall comply fully with the requirements of the Family Education Rights and Privacy Act (FERPA) when dealing with student records.

Documents and information provided at a Board of Trustees meeting constitute public records and are accessible by the chartering school district. When a chartering school district believes it needs other records and documents to meet its oversight responsibilities, the district should submit a written request to the charter school for those additional records and documents. The charter school shall provide access to, or copies of, such records within a reasonable period of time. The charter school or the chartering school district may wish to contact the Department of Education for assistance in resolving any conflict in this area.

Facilities Access

Chartering school districts are also to have ongoing reasonable access to a charter school's facilities. Site visits to the charter school by the chartering school district may be beneficial in fulfilling the chartering school district's oversight responsibilities. Charter schools must allow reasonable site visits by the chartering school district.

4. Accountability

The Pennsylvania Accountability System and No Child Left Behind

The Pennsylvania Accountability System applies to all public schools (including Charter Schools) and districts. It is based upon the Commonwealth's content and achievement standards, valid and reliable measures of academic achievement, and other key indicators of school and district performance such as attendance and graduation rates. The Pennsylvania Accountability System meets the requirements of the Federal No Child Left Behind legislation and has the same end goal – having every child in the Commonwealth proficient or above in reading and mathematics by the year 2014.

Schools are evaluated on a minimum target level of improvement called Adequate Yearly Progress (AYP). Failure to meet AYP for two consecutive years results in a school being placed in School Improvement. At that point, several consequences occur, including the requirement to prepare a School Improvement Plan. This School Improvement Plan is distinct and separate from the Charter School Annual Report. However, supporting data and documentation from the Annual Report can and should be included in the School Improvement Plan to help show what processes the Charter School is implementing to improve student achievement.

Strategic Planning and School Improvement

Charter schools will meet the Chapter 4 strategic planning requirements through the process of developing their charter school application, presenting the application for approval, updating the approved Charter as needed, engaging in the Charter renewal process, and submitting the Annual Report. Charter schools that do not meet AYP for two consecutive years and are placed in School Improvement will be required to complete a School Improvement Plan per the requirements of the federal law, PL 107-110, No Child Left Behind Act of 2001, Sec 1116. *Academic Assessment and Local Educational Agency and School Improvement*, (b)(1)-(6), School Improvement.

The charter school shall have the School Improvement Plan approved by the Charter School Board of Trustees, the CEO and the Intermediate Unit Executive Director. Technical assistance to prepare the School Improvement Plan may be provided by the chartering school district and/or the Intermediate Unit.

Following approval of the School Improvement Plan the charter school shall submit a signed copy of the Statement of Quality Assurance to the Department of Education. The Statement of Quality Assurance must be submitted to the Department of Education. The document must be submitted by the deadline date set each year by the Department of Education.

5. Renewal or Closure of Charter Schools

Renewal Procedures

A charter school must notify, in writing, the chartering school district between July 1 and October 1 of the final school year of its current Charter, that it is requesting renewal of the Charter. The renewal decision begins with the previously submitted Annual Report and may require additional items as requested by the chartering district. Upon providing this notice to the chartering school district, the chartering district shall inform the charter school, within 30 days of the receipt of the charter school's notice, of what additional information beyond the Annual Report is to be provided to the district for review. If districts wish to grant a Charter renewal, they may waive a public hearing.

The chartering district's request for information and documents may include, but is not limited to, the following: (1) all financial audits and financial reports; (2) standardized test scores; (3) PSSA results; (4) special education reports from the Bureau of Special Education, but not including any student identifying information; (5) audit reports from the Office of the Auditor General, and (6) documentation that shows the charter school met the measurable goals set forth in the charter school's application. Charter schools shall provide the requested information within 60 days of the notice by the chartering district of the information being requested. Within 45 days of receipt of the information from the charter school, the chartering district shall notify the charter school that it intends to renew or non-renew the charter, following the proceedings described in the law in the case of nonrenewal.

Charter schools that wish to change a portion of the Charter agreement due to changes in the charter school's educational program during the renewal process or anytime while the charter is in effect, should request that the chartering school district board of directors approve an amendment to the Charter. Amendment procedures should be utilized rather than submitting a new Charter application. As with any contract, a party to the contract (charter agreement) may submit to the other suggested changes or amendments. When and if both parties to the contract agree, the charter agreement may be amended following approval from both the board of school directors and the charter school Board of Trustees.

The charter school's annual report will provide an on-going, comprehensive assessment of the charter school's progress towards its goals; the chartering school district should look to that report to begin its renewal process. The National Association of Charter School Authorizers recommends the renewal process should be a "transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions." In their *Principles and Standards for Quality Charter School Authorizing*, this organization has established the following standards for charter renewal:

Transparent Process

- Articulates the criteria for renewal.
- Publishes a timetable and process for renewal.
- Clearly communicates the options and consequences available under state law including revocation, non-renewal, probation, and renewal.
- Explains any available rights of appeal, whether to administrative or legal bodies, through which the decisions of the authorizer can be challenged.

Comprehensive Data

- Analyzes and weighs data regarding a school's student, organizational, and mission-specific performance over time in relation to the terms of its contract.
- Considers multiple sources of data, including state-mandated, standardized and internal test data, evidence of mission-related outcomes, and qualitative reviews, to judge school quality.
- Solicits parent and public input into the charter renewal process and articulates how input will impact the decision.

Merit-Based Decisions

- Grants renewal only to a school with a high quality educational program that has achieved the goals and standards identified in its contract, is organizationally and financially viable, and has been faithful to the terms of its contract and applicable law.
- Outlines a protocol for the orderly closure of a school."

Nonrenewal

A charter may be non-renewed for reasons listed in Section 1729-A(a).

- (1) "*One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 1720-A.*"

Material violations are substantive breaches in the terms and conditions of the charter school. Examples of a material violation of the charter may include repeated failure to meet the deadline for submitting an Annual Report or providing substandard responses to the educational quality questions on the report.

- (2) "*Failure to meet the requirements for student performance set forth in 22 PA Code Ch. 5 (relating to curriculum) or subsequent regulations promulgated to replace 22 PA Code Ch.5 or failure to meet any performance standard in the written charter signed pursuant to section 1716-A.*"

Failure to meet the requirements of Chapter 4 of the State Board of Education regarding state academic standards and curriculum and/or failure to meet any student academic performance standards contained in the signed charter.

- (3) *"Failure to meet generally accepted standards of fiscal management or audit requirements."*

Copies of local audits and state audits should be made available to the board to help determine if a failure has occurred in this area. Routine audit findings or suggestions do not rise to the level of material violations that would violate generally accepted standards of fiscal management. Audit findings or suggestions that the charter school has addressed and corrected also do not rise to the level of material violation.

- (4) *"Violations of any provisions of this article."*

- (5) *"Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities."*

Copies of the State special education audits should be made available to the board to help determine if a violation of federal law has occurred.

Audit findings or suggestions that the charter school remediates do not rise to the level of material violation.

- (6) *"The charter school has been convicted of fraud."*

Immediate Revocation

In cases where the health or safety of the school's pupils, staff or both is at serious risk, the local board of school directors may take immediate action to revoke a Charter of a charter school. An immediate revocation of a Charter by the local board of school directors requires the charter school to immediately close the charter school upon receipt of the revocation notice, which shall state with reasonable specificity the grounds for the action taken.

When the local board of school directors orders an immediate revocation, it shall hold a public hearing on the matter, subject to the Sunshine Act, within 20 days of the revocation notice. At the hearing, the local board of school directors shall present and substantiate the cause for its actions, allow the charter school the opportunity to offer testimony, and vote on whether to revoke the charter. An immediate termination overrides the requirement for the 30-day public comment period set forth in Section 1729-A(c), and is not subject to the provision that the Charter remains in effect until final disposition by CAB.

Revocation or Closure

The chartering school district should inform the Department of Education, Bureau of Community and Student Services, Charter Schools of the date of the revocation hearing, and subsequently, the outcome of the revocation hearing.

Immediately upon revocation of the charter or decision to close the school, the charter school's Board of Trustees shall, by Board resolution, authorize the person who will be responsible for concluding the affairs of the charter school and provide to the Department of Education, Bureau of Community and Student Services, Charter Schools, a copy of this

Board resolution and the name, address, phone number, fax number and email address of this person.

6. Attendance Issues

Enrollment

Based on §1723-A of the Charter School law, any student in the Commonwealth is eligible to enroll in a charter school. A charter school may not discriminate in its admission policies or practices on the basis of intellectual ability or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal is used by a school district.

However, the law authorizes that a charter school may have a specific mission or focus that addresses a specific population listed in the law as “at risk student,” specific grade levels or curricula areas such as mathematics, science or the arts. These charter schools may limit admission and develop reasonable criteria to evaluate prospective students. The information related to the evaluation process for prospective students must be outlined in the Charter application submitted to the local school district. The procedures and evaluation process may not vary from what is presented in the Charter application without review and approval by the chartering school district board of directors as an amendment to the Charter.

A charter school may not use achievement tests, entrance examination tests, or other means of testing a student’s intellectual ability in order to grant or deny admission. A charter school also may not require that a student has obtained or maintained a particular grade point average in order to be admitted to the charter school.

Charter schools must provide school districts with the PDE Charter School Student Enrollment Notification Form for each district student enrolled in the charter school within 15 days of the student’s enrollment and must notify the school district within 15 days of a student’s withdrawal.

[The PDE Charter School Enrollment Notification Form is available via this link.](#)

Within 10 days of receipt of notice of enrollment of the student in the charter school, school districts must provide a copy of a student’s records to the charter school, including any individualized education program (“IEP”) for that student. School districts and charter schools should cooperate in the transfer of records. A student that continues for succeeding years at the charter school shall be included on a list of all such students and sent to the district of residence at the beginning of each school year.

Kindergarten

Charter schools may operate half-day or full-day kindergarten programs regardless of what the chartering school district or a student’s district of residence may be operating. The charter school’s Kindergarten admission age shall be set by the charter school Board of Trustees and be included as part of the admission policy in the charter application. The expectation is that a charter school will be consistent in complying with the admission policy that has been established by the Board of Trustees. Parents who choose to enroll their child in a charter school Kindergarten, that permits a younger age than the school district of residence, may be denied transfer to the school district’s first grade, if the child does not meet the school district’s age requirement for entrance to school.

Charter schools with students enrolled in one-half day kindergarten programs will receive payments of 0.5 of the "selected expenditure" per student from the student's school district of residence. Charter school with students enrolled in a full day kindergarten program will receive payments of 1.0 of the "selected expenditure" from the student's district of residence regardless of the kindergarten program currently funded for the student's district of residence.

Compulsory Attendance

Charter schools must report to the student's school district of residence when a student has accrued 3 or more days of unexcused absences. It is the responsibility of the school district to enforce the compulsory attendance laws in accordance with the Public School Code.

Students Institutionalized from a Charter School

When a student is enrolled in a charter school, but becomes institutionalized (not placed there by the charter school), the charter school shall remove the student from its rolls and notify the student's school district of residence about the institutionalization. The student's school district of residence shall thereafter be responsible for the payment of tuition to the host school district (where the institution is located) pursuant to 24 P.S. §§1306 and 1308. However, if a charter school places a student in a program located outside the charter school facility, the charter school is responsible for paying for that program.

Expelled or Suspended Students

During the enrollment process and prior to admission to a charter school, the parent, guardian or person having control of a student shall provide a sworn statement stating whether the student was previously or is presently suspended or expelled from any public or private school for any offense involving weapons, alcohol or drugs or for the willful infliction of injury to another person or for any act of violence committed on school property. The school from which the student was suspended or expelled and the dates of the suspension or expulsion must be provided. Any willful false statement shall be a misdemeanor of the third degree.

Charter schools should make certain they obtain this statement during the enrollment process. If a charter school accepts a suspended or expelled student, the student's school district of residence is not required to pay the charter school for that student's enrollment until the suspension or expulsion period has passed and the student has met all the conditions imposed during the suspension or expulsion. However, the suspending or expelling school and the charter school may enter into an agreement for providing an education for a student less than 17 years of age or older, up to age 21.

For a student who has been expelled from a charter school under the age of 17, §12.6 of the State Board of Education regulations requires the parents to attempt to find an educational program. If the parents are not able to do so they must notify the charter school within 30 days. Thereafter, the student must be provided an educational program and the charter school is responsible for providing this program.

Charter schools are accountable for the education of their students. A charter school cannot have a policy that allows the charter school to suspend or expel a student for failing to meet the charter school's academic requirements.

7. Discipline

Weapons Possession

Charter schools are required to follow §1317.2 of the School Code, reporting all incidents of weapon possession to local law enforcement officials and expulsions for weapons possession to PDE. Charter schools must complete the Violence and Weapons Possession Report (PDE360) per §13-1303-A. In addition, the student's record from a charter school must include information on suspensions or expulsions for weapons possession or any other reason.

Discipline Policies

Discipline policies for the charter school and amendments to those policies shall be approved by the Board of Trustees and disseminated to all students and parents associated with the school. Students should be made aware of all policies of conduct and their consequences. Student and parent handbooks and posting of specific rules of conduct should be throughout the charter school.

Due Process

Charter school applicants must include in their application for a Charter the procedures to be used regarding the suspension or expulsion of pupils. The procedures must comply with Section 1318 of the Public School Code, Chapter 12 and Chapter 711 of the State Board of Education regulations. A student that is to be suspended or expelled from the public charter school must be afforded due process.

8. Transportation

Transportation must be provided to charter school students on such dates and periods that the charter school is in regular session whether or not transportation is provided to students attending school district schools. Therefore, school districts must provide transportation for the early dismissal of charter school students if the early dismissal was on the charter school's calendar at the beginning of the school year.

School districts also must provide transportation in excess of 180 days if, on the charter school's calendar at the beginning of the year, more than 180 days are identified as days the charter school will be in operation. Providing this information on the charter school's yearly calendar constitutes dates and periods when the charter school is to be in regular session. However, when severe weather causes a school district to cancel school, start late or dismiss early, the school district only needs to provide transportation to public charter school students for the dates and periods the school district is open and provides transportation to its students.

The school district is required to provide transportation to a charter school located up to ten miles from the school district boundary. School districts are not required to provide transportation for charter school students in the following circumstances: (1) field trips; (2) to or from extra-curricular activities; (3) to or from any buildings other than the charter school.

If the Secretary determines that a school district is not providing the required transportation, the Secretary shall pay funds directly to the charter school for costs incurred in the transportation of students. Funds paid to the charter school shall be deducted from

any payments made to the school district. 24 P.S. §17-1726-A(b), (c). Charter schools that receive such funding must provide or contract for transportation for the students who attend the charter school.

Just as school districts are required to provide transportation for regular education students to a charter school, school districts also must provide transportation for students with disabilities eligible under IDEA and protected handicapped students under Section 504 to the charter school in which they are enrolled. This includes transportation to an Extended School Year (ESY) program if that program is held at the charter school.

However, some students with disabilities and some Section 504 students require modifications or accommodations for their transportation to the charter school. Although school districts are required to provide transportation for these students, school districts are not required to provide the modifications or accommodations (such as specialized equipment or personnel to accompany the student) for such students. Provision of modifications or accommodations in a student's IEP or Section 504 Service Plan are the obligation of the charter school, because it is the charter school that owes the student a Free Appropriate Public Education (FAPE). For example, if a student requires an aide to accompany the student during transportation to and from the charter school, the school district is responsible for the student's basic transportation but the charter school is responsible for providing, or paying for, the costs of the aide (modification and/or accommodation).

However, the Department strongly recommends that, because school districts have expertise and capacity to provide specialized transportation, school districts should provide the specialized transportation of students with disabilities and section 504 students, if requested by the charter school, and bill the charter school for such modifications or accommodations above and beyond the normal costs of transportation.

9. Extracurricular Activities

The Charter School Law requires a charter school student's school district of residence to allow the student to participate in the school district's extracurricular activities if the student is able to fulfill the requirements of participation and the charter school does not provide the same extracurricular activity.

The requirements of participation shall apply equally to charter school students and students attending schools of the school district. The student's school district of residence must accept the charter schools written confirmation, which may include providing copies of the student's attendance record and grades, that the student has met the established standards for the extracurricular activity. Charter schools must inform parents that they must authorize release of such information, which may constitute the student's education record, in order for the resident school district to verify that their children are eligible to participate in extra-curricular activities.

School districts cannot limit participation of charter school students in extracurricular activities on the basis that the activity is "full" with school district students. Charter school students must be given an equal opportunity to compete for "spaces" in extracurricular activities. School districts are not required to provide transportation for a charter school student to or from the extracurricular activity. There may be additional requirements that the district of residence and charter school need to consider if the student participating or seeking to participate in extracurricular activities is a student with a disability.

The resident school district may charge the charter school for charter student participation in extracurricular activities, since these costs were part of the per-pupil payment that is paid to charter schools. This fee is on a "cost basis", with the resident school district neither losing nor making money, as determined by the school district using the expenses of each activity, including coach or director, uniforms, transportation and miscellaneous costs.

The resident school district may develop policies to establish which school building charter school students may participate in extracurricular activities, such as the building closest to the charter school or the building the student would be assigned to if s/he attended the public school district.

Disputes regarding a charter school student's participation in the school district's extracurricular activities should be resolved between the school district and the charter school. The Department of Education, Bureau of Community and Student Services, Charter Schools team will assist where necessary in the process.

10. Payments to Charter Schools

Charter School Responsibility

The PDE Enrollment Notification Form must be provided to the school district of residence upon the initial enrollment of a student. Thereafter, at the beginning of each school year, charter schools must provide the school district of residence with a list of students returning to the charter school from the previous school year.

School District Responsibility

The form, PDE-363, "Funding for Charter Schools, Calculation of Selected Expenditures Per Average Daily Membership," must be completed by each school district that has resident students enrolled in a charter school and must be submitted to PDE by August 31. The form must also be sent to each charter school that requests it within 10 days of the request. Guidelines for completing the form and the consequences of not submitting it to PDE by August 31 or to a requesting charter school can be found under financial documents on PDE's website at: [PDE-363 Guidelines](#)

School District Payments to Charter Schools

Charter Schools shall provide to each school district of residence:

1. Invoices sent to school districts must include the following information regarding each individual resident student enrolled in the charter school:
 - a. Name
 - b. Address
 - c. Birth date
 - d. Grade level
 - e. Parent(s) or guardian(s) name(s) and telephone number
 - f. Enrollment date
 - g. Withdrawal date (if applicable)
 - h. Special education and start date (if applicable)
 - i. Previous school type

2. Included on or with the invoice should be a summary of the amount due for the entire school year through the current month, the amounts the school district has paid to the charter school to date for the current school year, and the amounts of previous PDE deductions for the current school year.
3. Invoices must be sent to school districts in sufficient time for the school districts either to make payments by the 5th day of the following month or to decide that payments will not be made to the requesting charter school. (E.g., invoices mailed by September 10 for payment by October 5).
4. Payments will not be made for students whose Enrollment Notification Form has not been submitted to the school district.
5. A school district is not required to pay a charter school the increased Selected Expenditures for a special education student until that student has been identified as a student with a disability in need of special education services *and* the front page of the IEP has been submitted to the school district with the start date. The front page of the IEP shall serve as sufficient documentation that the student is eligible for special education services. Because of privacy laws such as FERPA, the charter school is not permitted to release special education records of students enrolled in the charter school without a parent's consent. Therefore, to validate to a school district that a student is in need of special education services, a charter school is required to, *and may only*, provide the resident school district with the front page of the IEP. The school district of residence must keep this information secure and confidential *and must destroy the IEP cover sheet when it is no longer needed*.

PDE Payments to Charter Schools

1. Informal Process – If PDE learns about disputes between charter schools and school districts concerning payments to charter schools prior to the charter school's submission of a request to withhold school district funds, or if this is the first request from the charter school for a particular school district, PDE may work informally in an attempt to get the parties to resolve the matter. As part of this process, PDE will encourage the charter school to obtain a written explanation of the nature of the district's opposition to the charter school's position.
2. Formal Process – When PDE receives a letter from a charter school seeking to invoke 24 P.S. § 17-1725-A(a)(5) (i.e., requesting the withholding of funds from a school district), this triggers the formal process outlined below.
3. The Bureau of Budget and Fiscal Management, Division of Subsidy Data & Administration, when appropriate, will review the charter school's request letter and any attachments. When appropriate, staff from the Division of Subsidy Data and Administration will consult with the Bureau of Community and Student Services, Charter Schools, to assist in resolving the matter. If the request letter does not contain the necessary documentation in support of the request for payment, the Division will contact the charter school requesting additional documentation.
4. The necessary documentation shall consist of the following:
 - a. A letter stating the amount the district has paid to the charter school for the period at issue. Attached to this letter should be any documents (including letters from the

school district, photocopies of checks, or payment vouchers) that support the amount paid.

- b. A list of all students who attended the charter school for the period covered by the request letter. For each student, the list must indicate all of the following: (1) Name; (2) Address; (3) Grade Level; (4) Birth Date; (5) Regular or Special Education; (6) Dates of Enrollment and withdrawal if applicable.

Note: If any students attended the charter school for only a portion of the period, the request letter or student list must indicate the dates of attendance so that PDE may withhold a partial payment for those students.

- c. A copy of the PDE Enrollment Notification Form for each student and the date it was mailed to the school district. Also, a copy of the front page of the IEP and the date special education services began for any student for whom the charter school is seeking payment at the special education rate. (Once a PDE Enrollment Notification Form or the front page of an IEP is provided for a particular student, the charter school should not provide another copy of the form(s) if a request for payment is made to PDE for that student for other months of the school year.)
 - d. Documents reflecting the nature of the dispute between the school district and the charter school. This should include the school district's position concerning the charter school's request for payment when possible.
 - e. The amount of the Selected Expenditure to which the charter school believes it is entitled.
5. Recommendation on Request – The Division of Subsidy Data & Administration will review the documentation and make a recommendation to the Secretary of Education on the charter school's request. In this review process, the Division will calculate the amount owed to the charter school by multiplying the number of students for whom the school district did not make full payment by the school district's Selected Expenditure. (Separate calculations shall be made for regular education students and special education students.) The Division will then submit a memorandum to the Secretary for signature authorizing the deduction of subsidy from the school district and authorizing the Comptroller's Office to make a payment to the charter school.
 6. Secretary of Education Issues Decision on the Request -
 - a. If the documentation submitted by the charter school and the school district clearly supports the charter school's request for withholding of funds, the Secretary will grant the request and sign the memo to the Comptroller's Office. The Secretary shall provide notice of this decision to the charter school and the school district.
 - b. If the documentation submitted by the charter school and the school district does not clearly support the charter school's request for withholding of funds, the Secretary will deny the request. The Secretary shall provide notice of this decision to the charter school and the school district.
 7. Per Section 1725-A(a)(6) of the law, a school district may notify the Secretary within 30 days after a deduction is made that the deduction was inaccurate.

8. At the end of the school year, the Department will conduct a reconciliation of the funds the Department deducted from payments to school districts for payment to charter schools, according to the attached Guidelines.

11. Master Agreement and Major Grant Programs

The Master Agreement is a method of improving the contracting process for grants with the Pennsylvania Department of Education. The Master Agreement is a non-financial, binding agreement between a public charter school and the Department of Education. It contains all of the standard contract terms that apply to the Department's major state and federal grant programs and enables entities to receive grant funds by completing and signing individual program riders. The Master Agreement System includes the following elements:

- Master Agreement valid for a term of five years
- Individual Rider Agreements for each grant program
- Summary Budget for Federal/State Program Funds
- Reconciliation of Cash on Hand Quarterly Report
- Final Expenditure Report for Federal/State Program Funds
- Agreement Numbering format/Agreement tracking system
- Standard Payment system

The following documents are required by the Department to initiate a Master Agreement:

- Official Charter signed by the officers of the chartering school district board of directors and the charter school board of trustees.
- Approved Charter application
- Application Fact Sheet
- Completed Budget Form PDE 2028
- Completed Wire Transfer Form
- Application addendum – federal grant requirement
- Assurances – federal grant requirement
- Submission of completed Master Agreement checklist
- Assure attendance of staff member for financial training
- Assigned AUN number by the Department of Education
- 501.C3 Non-Profit Agreement
- Copy of Penn*Link Application
- Copy of official notice of ID number
- Imagine PA Vendor Number

12. Facilities

Borrowing

The Charter School Law (CSL) gives charter schools the authority to incur debt for the construction of school facilities. Any indebtedness incurred by a charter school does not impose any liability or legal obligation on any school entity or the Commonwealth. As part of the annual financial report, charter schools must list the amount of bonds or other indebtedness that becomes due during the fiscal year, together with the amount paid on each item of indebtedness. In case of a charter school's failure to furnish the annual financial report by the required deadline, the Secretary of Education may withhold any state appropriation that may become due to that charter school until such report has been received.

Building Construction Reimbursement

22 PA Code Section 349.30, provides for the continuation of reimbursement for buildings closed to public school use, but leased for public school programs or other purposes. Basic Education Circular (BEC) 22 PA Code Section 349.28, Closing of School Buildings provides further guidance on the continuation or cessation of subsidy payments on a school building closed to classroom use. Accordingly, leasing of a public school building to a charter school would justify continuation of school construction reimbursement if the Department has approved and is participating in a capital project associated with a school building. Proceeds from the lease must be used by a school district to reduce the reimbursable amortization of the building as per 22 PA Code Section 349.30 and BEC 24 P.S. Section 7-707, Sale or Lease of Unused and Unnecessary Lands and Buildings.

Sale vs. Lease

As per BEC 24 P.S. Section 7-707, reimbursement by the Commonwealth ceases if a district sells a school building that has been converted to a charter school. Therefore, in developing guidelines for the conversion of a public school to a charter school, a school district needs to consider the financial impact of leasing versus selling a building where a previously approved school construction project is being reimbursed.

Separate and Distinct Entity

A charter school, including a conversion charter school, must be a separate and distinct entity from the school district that grants the charter. Students enrolled in any charter school must be educated: (1) in a building that is separate from buildings used by the school district to educate school district students, or (2) in the case of a partial conversion, in an area of a building that is completely separate from any area that is used to educate school district students.

Construction of a Facility

A charter school may construct a school facility within the limitations described below.

1. *Use of funds.* A charter school may construct a facility with state or local funds. Charter schools, however, are not eligible for reimbursement from the Commonwealth on construction projects.
2. *Nature of facility.* A charter school must limit construction work to its school facilities and may not include non-school facilities in a construction project.
3. *Health and Safety.* 24 P.S. 17-1722-A(b) requires a charter school to comply with facility laws and regulations that pertain to the health or safety of pupils. To insure that charter schools have taken into account the health and safety of students and staff when planning construction projects, a charter school is required to submit [PDE-397](#) (PDF) to the Division of School Facilities, Pennsylvania Department of Education prior to beginning construction.

Renovation of a Facility

A charter school may renovate owned facilities. 24 P.S. 17-1722-A(b) requires a charter school to comply with facility laws and regulations that pertain to the health or safety of pupils. To insure that charter schools have taken into account the health and safety of students and staff when planning construction projects, a charter school is required to

submit PDE-397 to the Division of School Facilities, Pennsylvania Department of Education prior to beginning construction.

Lease of a Facility

A charter school may lease property from public or private entities. In the event that a facility is being constructed or renovated in order to lease it to the charter school, however, that construction or renovation may be subject to certain restrictions. See the Facilities attachment for detailed information.

Pursuant to 24 P.S. §17-1715-A(1)), charter schools and their contractors are subject to certain statutes governing construction-related work. See *Facilities* attachment. Charter schools are advised to contact the Department of Education, Division of School Facilities, other state agencies, such as the Pennsylvania Departments of Labor and Industry, Transportation and Environmental Protection, and local municipalities with jurisdiction over school construction prior to undertaking any projects to ensure their compliance with law and regulation. In addition, 24 P.S. 17-1722-A(b) requires a charter school to comply with facility laws and regulations that pertain to the health or safety of pupils. To insure that charter schools have taken into account the health and safety of students and staff when planning construction projects, a charter school is required to submit form PDE-397 to the Division of School Facilities, Pennsylvania Department of Education.

Section 2574.3 of the Public School Code of 1949, as amended, provides reimbursement for leases of buildings or portions of buildings for charter school use, which have been approved by the Secretary of Education on or after July 1, 2001. The approved reimbursable annual rental for approved leases of buildings or portions of buildings for charter school use is the lesser of (i) the annual rental payable under the provisions of the approved lease agreement, or (ii) the product of the charter school facility's enrollment times a legislated dollar amount based on the type of school. The subsidy paid equals the approved reimbursable annual rental multiplied by the aid ratio for a charter school. Further guidance on the charter school facility lease program is available from the Bureau of Budget and Fiscal Management, Division of School Facilities, which is responsible for administering this program.

13. Certification of Charter School Teachers

The Charter School Law requires that at least 75% of a charter school's professional staff hold appropriate State certification. However, the Highly Qualified provisions of the federal No Child Left Behind Act (NCLB) now require that teachers working in charter school must hold at least a bachelor's degree and must demonstrate competency in the core academic areas in which they teach. Competency may be demonstrated by passing a content area test. Teachers holding a degree in a content area that have not taken education course work may apply for the Pennsylvania Teacher Intern Certification Program. Teachers involved in the Intern Certification program will be considered as certified and Highly Qualified professionals for up to three years or until they meet requirements for full certification. Charter schools must have every teacher employed meeting the Highly Qualified teacher status by the end of the 2005-2006 school year. .

Further guidance on these issues is available in the *Certification and Staffing and Policy and Guideline (CSPG) for Professional Staff in Pennsylvania Charter Schools* issued by The Bureau of School Leadership and Teacher Quality.

<http://www.education.state.pa.us/portal/server.pt/community/certifications/7199>

Per regulation, all special education professional staff must hold appropriate State certification and cannot be part of the 25% of the staff that is not appropriately certified.

The determination of whether a charter school has met certification requirements will be based upon the charter school's submission of the Elementary and Secondary Professional Personnel report to the chartering school district and the Department and per the Auditor General's School Audit reports.

(<http://www.auditor.gen.state.pa.us/Department/Info/School/index.html>)

14. Health Care Benefits

Every employee of a charter school shall be provided the same health care benefits as the employee would receive if he or she worked for the local school district. The local boards of school directors may require the charter school to provide the benefits per the school district's bargaining agreement, which may include both employee and charter school contributions. The charter school shall make the employer's contribution to the insurer, a local board, or a contractual representative of school employees, whichever is required to provide the health benefits. Charter schools will use the school district where the charter school is located as a guide to provide the same health care benefits to charter school personnel.

15. Special Education

Charter schools, like all other public schools, may not refuse enrollment to any student based on a disability. Charter schools are responsible for providing a free appropriate public education ("FAPE") to all enrolled students with disabilities and may contract with a school district, intermediate unit or other provider to provide necessary services.

Within 10 days of receipt of notice of enrollment of the student in the charter school, school districts must provide a copy of a student's records to the charter school, including any individualized education program ("IEP") for that student. School districts and charter schools should cooperate in the transfer of records. Receipt of the records is critical to determining and providing the appropriate educational services for the students.

A school district is not required to pay a charter school the increased Selected Expenditures for a special education student until that student has been identified as a student with a disability in need of special education services *and* has an IEP established. Because of privacy laws such as FERPA, the charter school is not permitted to release special education records of students enrolled in the charter school without a parent's consent. Therefore, to validate to a school district that a student is in need of special education services, a charter school is required to, *and may only*, provide the resident school district with the front page of the IEP. The school district of residence must keep this information secure and confidential *and must destroy the IEP cover sheet when it is no longer needed*.

The Department expects that IUs will work cooperatively with charter schools that seek assistance with students with disabilities so that these students are provided with FAPE.

Early Intervention

If a charter school admits children below school age, it should be aware that the Commonwealth provides early intervention services to eligible children with special needs who are at least 3 years of age but younger than the age of beginners through agencies which hold Mutually Agreed Upon Written Agreements (MAWAs). Those charter schools

should contact the MAWA holder in their area to make arrangements for the delivery of early intervention services. The local school district or intermediate unit or the Department's Bureau of Special Education can provide contact information on the local MAWA agency.

16. Career and Technical Education

The Department understands that there are students who choose to attend a charter school who also wish to enroll in educational programs that are offered by a career and technical school. However, there must be a carefully designed integration of the academic curricula and the career and technical curricula. School districts and career and technical schools have designed such integrated curricula and have negotiated agreements that include calculation of the costs to school districts for students receiving a career and technical education.

Charter schools are not party to the negotiated agreements between school districts and career and technical schools. It is the responsibility of the charter school to decide whether or not to make a career-technical school curriculum available to the student and, if so, to contract with a career and technical school for the provisions of these services. When a student chooses to attend a charter school the student chooses the charter school's educational offerings, which may or may not include a career and technical education. A charter school may contract with a career and technical school to provide a career and technical education option for its students, but a charter school is not required to provide such an option unless it becomes part of a student's IEP. The charter school and the career and technical school must establish an appropriate charge for charter school students receiving a career and technical education.

The charter school shall receive the full Selected Expenditure to which it is entitled from the student's resident school district, and the charter school must pay the career and technical school the established contractual charge for a student who receives a career and technical education. A student's school district of residence shall not be responsible for paying a career and technical school for the career and technical education received by a charter school student. The Department has no authority to withhold payments from the charter school in the event there are disputes regarding payments to a career and technical school by a charter school. Such disputes shall be resolved between the charter school and the career and technical school based on the contractual agreement between them.

REFERENCES:

Purdon's Statutes

24 P.S. §17-1701-A to §17-1732-A

West Chester Area School District v. Collegium Charter School, 571 Pa. 503, 812 A.2d 1172 (2002)

ATTACHMENTS:

[Facilities-Section 751 – Action Required For Various Project Classifications](#) (PDF)

[Self-Certification Application \(PDE-397\)](#) (PDF)

[Charter Application Evaluation Criteria](#) (PDF)

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