

Cyber Charter School Operations and Proper Use of Physical Facilities

24 P.S. §§ 17-1741-A – 17-1751-A

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PURPOSE

This Basic Education Circular (BEC) provides guidance to cyber charter applicants and cyber charter school operators relating to the requirements for delivery of curriculum and instruction to students through the internet and other electronic means and the proper use of a cyber charter school's physical facilities.

- For an applicant seeking to establish a cyber charter school, this document provides information that may be useful in planning the proposed cyber charter school, preparing the application for approval of the cyber charter, and responding to inquiries during the public hearing on the application for approval of a cyber charter.
- For an operating cyber charter school, this document provides information that may be useful in preparing for and responding to inquiries from the Pennsylvania Department of Education (PDE) and in continuing operations in compliance with the requirements of the Pennsylvania School Code relating to the Charter School Law (24 P.S. § 17-1701-A *et seq.*), other applicable law, and the school's charter.

INTRODUCTION

Schools that operate under a charter are divided into three general types – charter schools, regional charter schools, and cyber charter schools. The first two, charter schools and regional charter schools, are authorized to operate through charters granted by a local board of school directors. (See 24 P.S. §§ 17-1717-A(c) and 17-1718-A(b) and (c)). These schools are commonly referred to as “brick-and-mortar” charter schools and focus on teacher-led discussion and teacher knowledge imparted to students through face-to-face interaction at the schools' physical facilities. By contrast, cyber charter schools are authorized by PDE (see 24 P.S. § 17-1741-A) and offer a structured education program in which the school utilizes technology in order to provide a significant portion of its curriculum and instruction through the internet or other electronic means without a school-established requirement that the student be present at a supervised physical facility designated by the school, except on a very limited basis, such as for standardized tests.

Because both local boards of school directors and PDE are independently granted authority to review and act upon applications for the establishment of public schools that operate under a charter, and to oversee and regulate these schools, PDE must not invade upon the separate authority granted to local boards of school directors by the General Assembly. Consequently, in considering applications for the establishment of cyber charter schools and in the general oversight and regulation of operating cyber charter schools, PDE must recognize the differences between these types of schools. Furthermore, PDE must not permit the establishment or operation of a cyber charter school that should instead be authorized by local boards of school directors as a charter school or regional charter school. PDE's public recognition of these distinctions assist charter applicants with identifying the appropriate charter authorizer for submission of an application for the establishment of a charter school, regional charter school or cyber charter school, and in determining the

proper procedures for submission of an application to the authorizer and continuing operation of the school.

PDE also recognizes that cyber charter schools must comply with federal and state mandates regarding the provision of services to students with disabilities including, but not limited to, those required by the Individuals with Disabilities Education Act (IDEA). PDE will review the specific services being delivered to determine whether cyber charter schools are complying with federal and state mandates within the appropriate operation of a cyber charter school.

EXPECTATIONS FOR CYBER CHARTER APPLICANTS AND CYBER CHARTER SCHOOL OPERATORS

In reviewing a cyber charter application, and in the ongoing monitoring of operating cyber charter schools, PDE must ensure that the proposed or operating cyber charter school complies with the requirements of the Pennsylvania School Code relating to the Charter School Law and provides the required and comprehensive learning experiences and educational opportunities to all of its students without the need for its students to be present at a physical facility designated by the cyber charter school. A cyber charter school student's success should not depend on the student's presence at a physical facility of the school. A cyber charter school can be expected to provide each student with the services necessary for the student to receive and participate in the comprehensive educational offerings of the school regardless of where the student resides in the state. During the application process or in the monitoring of an operating cyber charter school, PDE will request information from the applicant or school to ensure that any physical facilities of the school are being properly utilized to provide students with supplemental services. To assist in the review of a school's use of physical facilities, the applicant or cyber charter school should be prepared to provide information to PDE as follows:

- An applicant or operating cyber charter school must provide information to PDE to demonstrate whether the school is able to function and provide all curriculum and instruction to all of its students without the need for students to be present at any physical facility designated by the cyber charter school. The student's ability to attend and succeed in the school or receive any portion of the student's instruction shall not be dependent on the student's presence at a physical facility designated by the cyber charter school.
- An applicant or operating cyber charter school must submit to PDE information relating to each of its proposed physical facilities. The information shall be submitted with the application or, in the case of an operating cyber charter school, at least 60 days prior to the date that the school proposes to first use the facility to provide services to students. Such information shall include all activities to be conducted and services to be provided at each proposed facility, the identification of necessary background and clearance records for the individuals providing services at the facilities, and any additional information requested by PDE.
- If an applicant or operating cyber charter school uses or plans to use a physical facility to provide services other than those required as an administrative office, the applicant or operating cyber charter school should be prepared to provide information requested by PDE, including but not limited to:

- The name and description of each individual activity and service provided at a physical facility.
 - An explanation of whether the physical facility is necessary for providing the service and, if so, why.
 - A description of alternatives in place for providing the services at locations or in methods other than at the physical facility to ensure equitable access to the services by students that are not present at the physical facility. For example, an applicant or operating school may describe suitable electronic communication with the student, or how it can provide for a staff member or contracted consultant to travel to a location convenient to the student to provide such services.
 - Copies of policies concerning student presence at a physical facility. These policies could describe the circumstances under which student presence at a physical facility is required, such as standardized testing and for individual or planned student/parent/guardian meetings with teachers or other school staff. The policies could also describe how presence at the physical facility is monitored.
- An applicant or operating cyber charter school is not to make any portion of its physical facility accessible or available for a student to receive or participate in the receipt of instruction that is not necessary as part of the supplemental service that the student is otherwise receiving at the physical facility.
 - An applicant or operating cyber charter school must also be prepared to demonstrate its ability to enroll students from across the state and provide equitable access to all services to those students in a materially consistent way, regardless of where they reside.
 - An applicant or operating cyber charter school must also be prepared to identify any costs or charges to a student for any of the services made available by the school to the student.

ADDITIONAL INFORMATION

After review of the information and documentation provided by the applicant or operating school, PDE will identify any concerns regarding the use of a physical facility. PDE will notify an applicant of any concerns in the written decision issued by PDE regarding the application and will contact the operating school to further discuss the concerns.

REFERENCES:

Purdon's Statutes

24 P.S. §§ 17-1741-A – 17-1751-A

Federal Statutes

Individuals with Disabilities Act, 20 U.S.C. §§ 1400 et seq
34 C.F.R. §§ 300.530-300.536

For additional information, please contact:

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