Charter Schools

24 P.S. §§ 17-1701-A - 17-1732-A

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PURPOSE

This Basic Education Circular (BEC) provides a general overview of Pennsylvania’s Charter School Law (CSL), 24 P.S. §§ 17-1701-A – 17-1751-A, and serves as a guide for school districts, charter schools, parents, students, and other interested individuals on the authorization and establishment, operation, oversight, and closure of a charter school. While this BEC includes information applicable to all charter schools, it is geared specifically to brick-and-mortar charter schools authorized by local boards of school directors.

The intent of the General Assembly, in enacting the CSL, was to provide opportunities for teachers, parents, pupils, and community members to establish and maintain charter schools that operate independently from the existing school district structure as a method to accomplish the following:

- To improve pupil learning;
- To increase learning opportunities for all pupils;
- To encourage the use of different and innovative teaching methods;
- To create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- To provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- To hold the schools established under the CSL accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

At the heart of these principles is the idea that charter schools will serve as laboratories of innovation. All charter schools must operate according to the terms of their charter agreement, the CSL, and all applicable laws.
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1. Charter Application Process

General Information

A charter school is a public school that operates independently of school districts pursuant to a charter issued by a local board of school directors. Individuals interested in establishing a new, conversion, or regional charter school must submit an application to the local board of school directors of the school district(s) in which the charter will be located.

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 percent of the teaching staff and more than 50 percent of parents of students attending the school to sign a petition in favor of the conversion. If a charter school is created through the conversion process, the chartering school district must redraw attendance zones or make other school assignment arrangements so that students who do not wish to attend the charter school may attend a district school.

A regional charter school operates pursuant to a charter issued by multiple boards of school directors. If the proposed charter school will be physically located in more than one school district, the CSL requires the applicant to: (1) apply as a regional charter school and (2) secure an affirmative vote of a majority of all the directors of each school district involved. A charter school applicant that intends to enroll students from more than one school district is not necessarily required to apply to operate as a regional charter school; in these cases, the CSL provides the applicant the choice. McKeesport Area School District v. Propel Charter School, 888 A.2d 912 (Pa. Cmwlth. 2005).

Whether an applicant is seeking to establish a new, conversion, or regional charter school, the CSL outlines specific requirements and timelines that must be adhered to by both the applicant and the school district(s) throughout the application process.

Evaluation of Application

Charter schools are intended to provide parents and pupils with expanded choices within the public school system. The CSL requires that a charter school be accountable to parents, the public, and the Commonwealth, with a delineation of that accountability clearly reflected in the charter. Each school district may identify criteria to use in the evaluation of a charter application. The CSL requires a charter applicant to, at a minimum, demonstrate how the proposed charter school will provide a comprehensive learning experience to students and will serve as a model for other public schools. Application criteria are based on the CSL and should be made publicly available.

Additionally, a charter applicant must demonstrate that it has sustainable support from teachers, parents, other community members, and students to be granted a charter; further, a charter applicant must detail strategies for meaningful parent and community involvement. The State Charter Appeal Board (CAB) has defined sustainable support as “support sufficient to sustain and maintain the proposed charter school as an on-going entity.” Brackbill v. Ron Brown Charter School, 777 A.2d 131 (Pa. Cmwlth. 2001). Sustainable support is measured in the aggregate and not by individual categories. Carbondale Area School District v. Fell Charter School, 829 A.2d 400, (Pa.Cmwlth. 2003).

A charter school must be operated by a non-profit entity governed by a board of trustees, and a charter applicant must provide a clear description of the method of
appointment or election of members of the board of trustees. In the event that a for-profit entity plays a role in the establishment of a charter school, a charter applicant must further demonstrate that the charter school’s board of trustees will retain real and substantial authority over the operation of the school, educational decisions, and staff. *Carbondale Area School District v. Fell Charter School*, 829 A.2d 400 (Pa. Cmwlth. 2003); *School District of York v. Lincoln-Edison Charter School*, 798 A.2d 295 (Pa. Cmwlth. 2002); *Brackbill v. Ron Brown Charter Sch.*, 777 A.2d 131 (Pa. Cmwlth. 2001); and *West Chester Area School District v. Collegium Charter School*, 760 A.2d 452 (Pa. Cmwlth. 2000), aff’d 812 A.2d 1172 (Pa. 2002). Whether a board of trustees has real and substantial authority is a factual analysis that must be determined on a case-by-case basis through a thorough review of each application.

Charter school applications are approved or denied by a majority vote of the local board of school directors. When a charter school applicant submits an application to operate a charter school to the local board of school directors, the local board must take action to approve or deny the application. If the application is denied, the charter school applicant may submit a revised application or may file an appeal with CAB; in the case of an appeal, the appeal must be accompanied by the signatures of the lesser of 1,000 district residents or two percent of the district’s residents on a petition to support the appeal. CAB must review the decision of the local board of school directors. Whether the application is denied or granted by CAB, only the charter school or school district whose decision is reversed may challenge CAB’s decision. Other districts and taxpayers do not have such authority and may not challenge the granting of a charter. *See Pennsylvania School Boards Association v. Zogby*, 802 A.2d 6 (Pa. Cmwlth. 2002).

Obtaining a charter from a local board of directors grants the recipient the permission to operate a public charter school. Written notification of the action taken by the local board of directors, whether the board of directors approves or denies the charter application, shall be sent to the charter applicant, the Department of Education (PDE), and CAB.

**Multiple Charter School Organizations**

Act 55 of 2017 amended the Pennsylvania Public School Code (School Code) to add section 1729.1-A to the CSL and permits the consolidation of existing and qualified brick-and-mortar charter schools into a Multiple Charter School Organization (MCSO). Additional information related to MCSOs, including detailed guidance related to the application process, can be found on the Department’s website.

**Insurance**

The CSL requires a charter school applicant to demonstrate that it will provide adequate liability and other appropriate insurance to cover any obligation of the charter school, its employees, and the board of trustees.

2. **The State Charter Appeal Board (CAB)**

CAB has exclusive jurisdiction over appeals by a charter applicant of a denial of its charter application by a local board of school directors. In order to appeal a denial of its application, the charter applicant must, within 60 days of the denial of its application, obtain the signatures of the lesser of 1,000 district residents or two percent of the district’s residents on a petition to appeal. The CSL requires each person signing a petition to appeal to declare that they are a resident of the school district and to include certain information on the petition; someone other than the signer may not enter the information
on behalf of the signer. The circulator of the petition must be a resident of the school district. The petition must be filed with the local court of common pleas for a determination of the sufficiency of the signatures. If the court of common pleas determines that the signatures are sufficient, then the charter applicant may appeal to CAB by filing a petition of appeal setting forth the grounds for the appeal.

In addition to hearing appeals related to the denial of a charter application, CAB is authorized to hear appeals related to: (1) the failure of a local board of school directors to act on an application for a charter within the law’s timeline; and (2) appeals from the revocation or nonrenewal of a charter. In these types of appeals, there is no requirement to gather signatures prior to filing an appeal.

Once CAB receives and acknowledges a petition to appeal a denied charter application, the matter is assigned to a hearing officer. The hearing officer’s function is to assist CAB in compiling the record, collecting any supplemental information offered by the parties, setting a schedule for filing of briefs and proposed findings of fact, disposing of procedural motions, and holding a hearing, if necessary. After the hearing officer has assembled the record, it is placed on CAB’s next meeting agenda and the parties and counsel appear to present argument of their case. After argument, board members may ask questions of counsel and representatives of the parties. CAB then takes the case under advisement, and a vote to grant or deny the appeal will take place at the next meeting. Action by CAB requires a majority vote of the seven-member body. A written decision affirming or denying the appeal is issued subsequent to the vote of the board members.

All final decisions of CAB are subject to appellate review by the Commonwealth Court.

A decision of CAB to reverse the decision of the local board of directors shall serve as a requirement for the local board of directors of a school district to grant the application and execute the written charter of the charter school. If the local board of directors fails to approve and execute the charter within 10 days of notice of the reversal by CAB, the charter shall be deemed to be approved and shall be executed by the chairperson of CAB.

3. Notification of Charter to PDE

When a school district grants a charter school applicant a charter, the school district becomes the chartering school district. The chartering school district must provide immediate, written notification to PDE’s Division of Charter Schools that a charter has been granted. If the charter is executed by CAB because the local board of school directors failed to do so, CAB should provide the written notification to PDE’s Division of Charter Schools that a charter has been granted. Additionally, the charter school should notify PDE’s Division of Charter Schools. PDE’s Division of Charter Schools will work with the charter school to obtain the necessary documentation for the charter school to be properly identified by PDE as a public charter school and assigned an Administrative Unit Number (AUN).

4. Terms and Conditions of a Charter

When authorized, the charter is the legally binding agreement between the chartering school district and a charter school. The CSL does not authorize provisional, temporary, interim, or any other type of charters. The term of an initial charter shall be set by the chartering school district for a period of at least three years, and not more than five
years. A charter may be renewed for five-year periods upon reauthorization by the chartering school district or CAB. A district of the first class may renew a charter for a period of one year if the governing board determines there is insufficient data to adequately assess a charter school’s academic performance, and determines that an additional year of data would assist in its decision whether to renew the charter for a period of five years. A one-year renewal of this type shall not be considered an adjudication and may not be appealed to CAB.

Conditions placed on a charter school by a chartering school district must enable the district to exercise oversight over the charter school, be consistent with the provisions of CSL, and be mutually agreed upon. For example, an enrollment cap may be mutually agreed to by the parties as part of the charter; if such a mutually agreed upon enrollment cap is in place, the chartering school district may withhold funding to the charter school for any student enrolled over the enrollment cap set forth in the charter. Richard Allen Preparatory Charter School v. School District of Philadelphia, 123 A.3d 1101 (Pa. 2015); see also School District of Philadelphia v. Department of Education, 92 A.3d 746 (Pa. 2014).

5. Amendments to Charters

As the CSL does not address a process for amendments to a charter, a charter can be amended only by agreement between the chartering school district and the charter school. The charter renewal process is not the proper means to obtain an amendment to a charter. To the extent a charter school seeks an amendment to its charter that cannot be accomplished through agreement with the chartering school district, it must submit an application to the appropriate district(s) for a new charter. Discovery Charter School v. School District of Philadelphia, 166 A.3d 304 (Pa. 2017).

6. Charter School Boards of Trustees


As public officials, members of the Board of Trustees of a charter school are required to file Statements of Financial Interest by May 1 following each year of service and the year following termination of service. Certain other charter school officials and employees must also file Statements of Financial Interest. Additional information concerning the requirement to file Statements of Financial Interest may be obtained by contacting the State Ethics Commission at (717) 783-1610.

Individual members of a Board of Trustees have certain legal obligations under the CSL and the School Code, including the obligation to be a good and effective steward of public monies and to provide independent governance of the charter school’s administrators.

Additionally, effective with the 2018-2019 school year and each school year thereafter, each newly appointed trustee of a charter school’s Board of Trustees is required to complete a minimum of four hours of PDE-developed or approved training in the skills and knowledge necessary to serve as a member of the Board of Trustees. This training must be completed within the individual’s first year of service on the Board of Trustees. If applicable, during the fifth year of an individual’s service on a Board of Trustees, and
every four years thereafter, the trustee must complete a minimum of two hours of PDE-developed or approved advanced training.

7. Applicability of the School Code and School Laws to Charter Schools

With important exceptions, charter schools are generally exempt from the requirements of the School Code and other laws that apply to school districts. However, sections 1715-A and 1732-A(a) of the CSL explicitly make charter schools subject to specifically enumerated provisions of the School Code and other provisions of law.

Additionally, certain statutory or regulatory provisions not listed in section 1715-A and 1732-A, including, but not limited to, 22 Pa. Code Chapters 4 and 10, by their own terms, also specifically apply to charter schools.

8. Oversight

A chartering school district is responsible for ongoing oversight of each of the charter school(s) within the district boundaries; in the case of regional charter schools, these responsibilities rest with all chartering school districts. Chartering school districts ensure each charter school is operating in compliance with its charter, the CSL, and other applicable laws.

Annual Reports

To facilitate a chartering school district’s review of a charter school, charter schools must work cooperatively with chartering school districts. A chartering school district should annually assess whether a charter school is in compliance with its charter and applicable laws. To facilitate that review, the charter school must submit an Annual Report to the chartering school district, which must provide the chartering school district with sufficient and accurate information about the operation of the charter school as well as ongoing access to the charter school’s facilities and records, including but not limited to: (1) all financial audits and financial reports; (2) the charter school’s Annual Financial Reports (AFR) and General Fund Budgets; (3) PSSA, Keystone Exam, or other state assessment results; (4) special education reports from PDE’s Bureau of Special Education, but not including any student identifying information; (5) audit reports from the Pennsylvania Department of the Auditor General or any Federal agency; and (6) documentation that shows whether the charter school met the measurable goals set forth in the charter school’s application.

Charter schools are required to submit an Annual Report to its chartering school district(s) and PDE’s Division of Charter Schools no later than August 1 of each year. An Annual Report that does not provide sufficient information in each required area will be considered incomplete. Failure by a charter school to submit an Annual Report to a chartering school district in a timely and complete manner may constitute a material violation of the charter.

Records and Facilities Access

Chartering school districts are to have ongoing and 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.
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, and teacher certification and personnel records. Charter schools and chartering school districts shall fully comply with the requirements of the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations, 34 CFR Part 99, when dealing with student records, including attendance records.

Documents and information provided at a Board of Trustees meeting constitute public records and must be accessible by a chartering school district. If the charter school maintains a publicly accessible website, the charter school should post a listing of the dates of Board of Trustees meetings, agendas for those meetings, and copies of minutes of the meetings.

When a chartering school district believes it needs additional records and documents, not enumerated above, 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.

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.

9. Renewal or Closure of Charter Schools

The procedure to challenge the granting of a charter may involve only the school district to which the charter application was submitted and not a non-chartering district. Similarly, a chartering school district is the only entity that may initiate revocation proceedings against a charter or make the determination to not renew a charter school’s charter. See Fairfield Area School District v. National Organization for Children, Inc., 837 A.2d 644 (Pa. Cmwlth. 2003).

Renewal Procedures

A charter school should provide written notification to the chartering school district between July 1 and October 1 of the final year of its current charter that it is requesting renewal of the charter. This notification is typically accomplished by submitting a renewal application to the chartering school district. A chartering school district shall establish policies and procedures for the review of a renewal application.

Upon receipt of the written notification, the chartering school district should inform the charter school, within 30 days of the receipt of the charter school’s notice, of what additional information beyond the charter school’s Annual Reports and Renewal Application is to be provided to the district for review.

Before granting a renewal of a charter, the chartering school district must conduct a comprehensive review of the charter school. The charter school’s Annual Report will provide an ongoing, comprehensive assessment of the charter school’s progress towards its goals; evaluation of these report should be central in renewal deliberations. The chartering school district’s request for information and documents may also include, but is not limited to: (1) all financial audits and financial reports; (2) the charter school’s AFR
and General Fund Budgets; (3) PSSA, Keystone Exam, or other state assessment results; (4) special education reports from PDE’s Bureau of Special Education, but not including any student identifying information; (5) audit reports from the Pennsylvania Department of the Auditor General or any Federal agency; and (6) documentation that shows whether the charter school met the measurable goals set forth in the charter school’s application.

Grounds for Revocation, Nonrenewal, and Closure

Grounds for revocation or nonrenewal of a charter may include one or more material violations of the charter, the CSL, or other laws applicable to the operation of charter schools; failure to meet requirements for academic performance or standards of financial management; and convictions for fraud.

If a chartering school district is seeking to revoke or not renew a charter, the chartering school district must: (1) provide notice of the grounds for such action; (2) hold a public hearing on the planned revocation or nonrenewal; and (3) inform both the charter school and PDE’s Division of Charter Schools of the date of the nonrenewal or revocation hearing. At the hearing, the chartering school district shall present evidence to support the grounds for nonrenewal or revocation and allow the charter school the opportunity to offer testimony. The public shall have 30 days to provide comment on the proposed nonrenewal or revocation. Formal action on the nonrenewal or revocation shall be taken by the board of school directors at a public meeting subject to the Sunshine Act. The charter shall remain in effect until final disposition of any appeal to CAB from a revocation or nonrenewal order issued by a chartering school district. In cases where the health or safety of a charter school’s pupils, staff or both is at serious risk, the chartering school district may take immediate action to revoke the charter and the charter will not remain in effect following disposition by the chartering school district.

Immediately upon final revocation or nonrenewal of the charter or decision to close the school, the charter school’s Board of Trustees shall, by Board resolution: (1) designate the person who will be responsible for concluding the affairs of the charter school and (2) provide PDE’s Division of Charter Schools a copy of the Board resolution and the name, address, phone number, fax number, and email address of the charter school’s designated individual.

Upon notification that a charter school’s charter has been revoked or nonrenewed or that a charter school has closed, PDE’s Bureau of Special Education will conduct on-site visits to review student files. Additionally, the chartering school district(s) shall conduct on-site visits to review student files and obtain copies of student records as necessary to ensure student records are retained and protected. All student records maintained by the charter school must be forwarded to the student’s district of residence. Students attending the charter school shall apply to another school in the student’s district of residence; normal application deadlines will be disregarded under these circumstances.

A charter school may appeal the decision of the local board of school directors to revoke or not renew its charter to CAB.
10. Enrollment and Attendance Issues

Enrollment

Any student in the Commonwealth is eligible to enroll in a charter school. If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.

A charter school shall not discriminate in its admission policies or practices based on intellectual ability or athletic ability, measures of achievement or aptitude, status as a person with a disability, English language proficiency, or any other basis that would be illegal if used by a school district. Further, a charter school may not use achievement tests, entrance examination tests, enrollment forms, admissions interviews, or other means of testing a student’s intellectual ability, disability status, English language proficiency or other basis that would be illegal if used by a school district to grant or deny admission. A charter school also may not require a student to obtain or maintain a particular grade point average to be admitted to the charter school. The chartering school district may conduct periodic audits of the school's applicants, accepted students, and enrolled students.

The CSL permits a charter school to have a specific mission or focus that addresses a targeted population of "at risk students," specific grade levels, or curricula areas such as mathematics, science, or the arts. Charter schools with specific missions may maintain reasonable, non-discriminatory criteria to evaluate prospective students. The evaluation process and criteria used to evaluate prospective students must be outlined in the charter application submitted to the local board of school directors. The process and criteria for evaluation may not vary from what is presented in the charter application without approval of an amendment to the charter.

A charter school has no obligation to enroll a child—or make available to the child any free school privileges—until a parent or guardian of the student has provided the school with proof of the child’s age, residence, and required immunizations. In order for a student to continue to receive a tuition-free education from his or her charter school, the parent or guardian should reestablish their residency status with their child’s school upon any changes thereto by providing the school with current proof of residency. Accordingly, charter schools must adopt a policy on student admission and should post its policies and procedures on its website. Charter schools should inform parents or guardians via its enrollment policies of their responsibility to provide the school with residency information at enrollment or at any time after enrollment when residency changes or is questioned to ensure that the parent and charter school can comply with the applicable requirements.

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 must 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.

For more information related to public school enrollment procedures, please see BEC 24

Notification to District of Residence

Charter schools should provide each student’s resident school district with the PDE Charter School Student Enrollment Notification Form within 15 days of the student’s enrollment or change in residency and should notify the relevant school district within 15 days of a student’s withdrawal from the charter school. The PDE Charter School Enrollment Notification Form is available on the Department’s website.

Within 10 days of receipt of notice of enrollment, resident 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 who 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.

Within 10 days of student disenrollment, charter schools should provide notice to the student’s school district of residence, and provide a copy of a student’s records, including any IEP, to the resident district or charter school in which the student enrolls.

Kindergarten

A charter school’s Board of Trustees will set its own kindergarten admission age and that age shall be included as part of the admission policy set forth within the charter application. If a charter school sets an entrance age that is lower than the kindergarten admission age of the student’s school district of residence, the school district of residence does not have the obligation to pay for the student’s enrollment in the charter school. The school district of residence’s obligation to pay for the student’s enrollment in the charter school begins when a student meets the school district’s minimum age for kindergarten. See Slippery Rock Area Sch. Dist. v. Pennsylvania Cyber Charter Sch., 31 A.3d 657 (Pa. 2011).

Parents who choose to enroll their child in kindergarten in a charter school 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 may operate half-day or full-day kindergarten programs, regardless of the type of kindergarten program operated by the chartering school district or a student’s district of residence. If a school district offers a half-day kindergarten program, charter schools with students enrolled in half-day kindergarten programs will receive payments from the student’s school district of residence equal to 0.5 multiplied by the charter school tuition rate for each student. If a school district offers a full-day kindergarten program,
charter school with students enrolled in a full-day kindergarten program will be entitled to the full charter school tuition rate from the student's district of residence.

Compulsory Attendance

In November 2016 and July 2018, statutory provisions of the School Code related to truancy and habitual truancy were amended when Act 138 of 2016 and Act 39 of 2018 were signed into law. Specifically, charter schools are required to maintain attendance policies designed to accurately determine when a child enrolled in the charter school has an unexcused absence. Additionally, charter schools must report unexcused absences directly to PDE through the Pennsylvania Information Management System (PIMS).

Each charter school is responsible for enforcing the compulsory attendance laws in accordance with the School Code as they relate to students enrolled in the charter school. Charter school responsibilities include ensuring that students and parents/guardians comply with compulsory attendance laws, ensuring that truancy prevention and elimination efforts are properly implemented, and taking appropriate action when a student enrolled in the charter school is habitually truant. More information on those responsibilities and other compulsory attendance and truancy matters can be found in the Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conference BEC (BEC 24 P.S. §§ 13-1326-1354).

Students who are enrolled in charter school but, who are at any time during the school term absent for 10 consecutive school days, shall be removed from the charter school’s membership roll unless the charter school has been provided with evidence that the absence may be legally excused or compulsory attendance prosecution has been or is being initiated. Within 10 days of student disenrollment, charter schools should provide notice to the student’s school district of residence, and provide a copy of a student’s records, including any IEP, to the resident district.

Students Institutionalized from a Charter School

When a student is enrolled in a charter school, but becomes institutionalized (i.e., not placed there by the charter school), the charter school must remove the student from its rolls and notify the student’s school district of residence. These institutions include, but are not limited to, detention homes, drug and alcohol treatment centers, or other residential treatment facilities. The student’s school district of residence is thereafter responsible for the payment of tuition to the host school district pursuant to 24 P.S. §§ 13-1306 and 13-1308. 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.

Students placed in hospital settings, whether for physical or mental health treatment, are not institutionalized. Accordingly, charter schools cannot unilaterally withdraw students placed in hospital settings for treatment of a physical injury; likewise, charter schools cannot unilaterally withdraw students placed in hospital settings for mental health care. If a student requires placement in a hospital setting for either physical or mental health care, the charter school in which the student is enrolled must pay for educational services provided to the student. Thus, a student placed in a hospital setting, whether for physical or mental health treatment, should remain enrolled in the charter school and should return to the charter school upon discharge from the hospital setting.

For more information related to the roles and responsibilities of school entities for students in institutions, see BEC 24 P.S. § 13-1306 Nonresident Students in Institutions.
Expulsion or Suspension of Students

Charter school applicants must include in the charter application the procedures for suspending or expelling pupils. 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. The charter school board of trustees shall define and publish the types of offenses that would lead to suspension or expulsion from school.

A student who is to be suspended or expelled from the charter school must be afforded due process. The procedures must comply with Section 1318 of the School Code, 24 P.S. § 13-1318 and Chapters 12 and 711 of the State Board of Education regulations.

Students who are expelled and who are under 17 years of age remain subject to compulsory school attendance laws and shall be provided an education in accordance with law. For a student under the age of 17 who has been expelled from a charter school, the expelled student’s parent or guardian is required to attempt to find an educational program for the student. The program must be approved by the charter school. If the parent or guardian is unable to find such a program, they must notify the charter school within 30 days of the charter school’s decision to expel the student. Within 10 days of its receipt of that notification, the charter school must make provision for the expelled student’s education. The charter school may not compel an expelled student to return to their district of residence to complete their education.

Dual Enrollment

Section 1525 of the School Code, 24 P.S. § 15-1525, provides that a school district may enter into an agreement with institutions of higher education in order to allow its students to attend institutions of higher education while enrolled in the school district and receive credits toward completion of courses at both the school district and at the institutions of higher education. Section 1525 is not applicable to charter schools. A charter school may contract with institutions of higher education to provide course work as part of the charter school’s curriculum. However, the charter school may only grant their students high school credit for such courses. Any decision to grant postsecondary credit must be made independently by the higher education institution consistent with the laws and accreditation rules applicable to that institution.

11. Discipline Policies and Weapons Possession

Each charter school’s Board of Trustees must adopt a code of student conduct that includes policies governing student discipline and a listing of students’ rights and responsibilities. The charter school’s code of conduct shall be published and distributed to students and parents or guardians. Copies of the code of conduct must also be available in the charter school.

Weapons Possession

Each charter school’s Board of Trustees must adopt a written policy addressing the possession of a weapon on school property and the charter school must annually submit a Safe Schools Report to PDE’s Office for Safe Schools. All students who have brought or are in possession of a weapon on school property, at any school sponsored activity, on
any public conveyance providing transportation to the charter school, or at any school sponsored activity must be expelled from school for at least one year. The Chief Administrative Officer of the charter school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The Chief Administrative Officer of the charter school shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (IDEA). Additionally, the charter school must report all incidents involving the possession of a weapon on school property to local law enforcement officials.

12. Transportation

Transportation must be provided to charter school students to the charter school at which the student is enrolled on such dates and periods that the charter school is in regular session regardless of whether transportation is provided to students attending school district schools. The school district is required to provide transportation to a charter school located up to 10 miles from the school district boundary; however, if the school district is a part of a regional charter school, it must provide transportation to the charter school regardless of the distance to the charter school.

School districts are not required to provide transportation for charter school students in the following circumstances: (1) field trips; (2) to or from extracurricular activities; (3) to or from any buildings other than the charter school; (4) outside of the 10-mile radius regardless of whether the charter school a student attends is part of an MCSO.

School districts must provide transportation for the early dismissal of charter school students if the early dismissal was on the calendar the charter school provided to the school districts at the beginning of the school year. School districts 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. When severe weather causes a school district to cancel school, start late or dismiss early, the school district’s provision of transportation to public charter school students may be limited to the dates and periods the school district is open and provides transportation to its students.

If a charter school believes that a school district is not providing the legally mandated transportation for a student, it may submit a request for a review to the Secretary of Education in accordance with section 1726-A of the CSL. If the Secretary of Education determines that a school district is not providing the required transportation, PDE shall pay funds directly to the charter school for costs incurred in the transportation of its students. Funds paid to the charter school shall be deducted from any and all payments made to the school district. Charter schools that receive such funding must use those funds to provide or contract for transportation for the students who attend the charter school.

School districts must provide students eligible under IDEA and protected handicapped students under Section 504 with transportation to the charter school in which they are enrolled. This includes transportation to an Extended School Year program if that program is held at the charter school.

However, some students eligible under the IDEA or Section 504 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).

PDE 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 under both IDEA and the Rehabilitation Act, if requested by the charter school, and bill the charter school for such modifications or accommodations above and beyond the normal costs of transportation.

13. Extracurricular Activities

The CSL 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 school’s 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 extracurricular activities.

School districts cannot limit participation of charter school students in extracurricular activities on the basis that the activity is fully enrolled 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 school district of residence 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 and the school district of residence should neither lose nor make money.

The school district of residence may develop policies to establish in 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 attending the public school district.
14. Accountability

Charter schools are subject to the same statewide assessment system and federal and state accountability standards as schools within school districts. Charter schools must administer the English Language Arts and Math Pennsylvania System of School Assessment (PSSAs) to every enrolled student in grades 3 through 8 and the Science PSSA to every student in grades 4 and 8. Additionally, the Keystone Exams, which are end-of-course assessments designed to assess proficiency in the subject areas of Literature, Algebra I, and Biology must be administered when the student completes the related course or in 11th grade, whichever occurs first.

Pursuant to the Every Student Succeeds Act (ESSA), schools will be identified for Comprehensive Support and Improvement, Additional Targeted Support and Improvement, and Targeted Support and Improvement based upon the specific federal accountability measures outlined in Pennsylvania’s Consolidated State Plan. Further, charter schools are included in the Future Ready PA Index, which provides comprehensive information about school success, including how schools are performing and making progress on multiple academic and nonacademic indicators.

15. Major Grant Programs

Charter schools are, in most instances, eligible to receive state and federal grants administered by PDE. In order to receive any grant, state or federal, a charter school must be party to a Master Agreement, a non-financial, binding agreement, with PDE. Upon notification of a newly executed charter to PDE, PDE’s Division of Charter Schools will work with the charter school to obtain the necessary documentation to initiate a Master Agreement.

16. Charter School Facilities

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.

Borrowing

The CSL permits charter schools 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 the chartering school district. As part of their AFRs, charter schools must include the amount of bonds or other indebtedness that becomes due during the fiscal year, together with the amount paid on each item of indebtedness.

Construction and Renovation of School Facilities

A charter school may construct or renovate a facility with state or local funds; however, charter schools are not eligible for reimbursement from the Commonwealth’s PlanCon program.
Any construction commissioned by a charter school must be limited to work to its school facilities and may not include work on non-school facilities. Additionally, the CSL requires a charter school to comply with facility laws and regulations that pertain to the health or safety of pupils.

Charter schools and their contractors are subject to statutes governing construction projects and construction-related work, including those relating to public bidding for certain projects. Charter schools are advised to contact the Pennsylvania Departments of Labor and Industry, Transportation, and Environmental Protection, as well as local municipalities with jurisdiction over school construction, prior to undertaking any projects to ensure their compliance with law and regulation.

Use of a School District Facility

22 Pa. Code § 349.30 provides for the continuation of reimbursement for buildings closed to use, but leased for public school programs or other purposes, see BEC 22 Pa. Code Section 349.28, Closing of School Buildings for further guidance on the continuation or cessation of subsidy payments to school districts when a school building is closed to classroom use. The lease of a school district building to a charter school would justify continuation of school construction reimbursement, if PDE has approved the lease. Proceeds from the lease must be used by a school district to reduce the reimbursable amortization of the building. 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, see BEC 24 P.S. Section 7-707, Sale or Lease of Unused and Unnecessary Lands and Buildings, for further guidance.

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.

Section 2574.3 of the School Code, 24 P.S. § 25-2574.3, 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 (1) the annual rental payable under the provisions of the approved lease agreement; or (2) 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.

To qualify for lease reimbursement, a charter school must be: (1) a Pennsylvania approved charter school; and (2) have a signed lease agreement for rental of a building (permanent structure) or portions of buildings and the charter school must use the leased building(s) for educational purposes. If a leased building includes space for both educational and administrative use, the lease costs on that building will qualify for reimbursement under the program. If the central administrative staff is housed in a separate facility, the lease costs for that facility do not qualify for reimbursement under
the program. A charter school cannot receive lease reimbursement for: (1) a building owned by the charter school; (2) payments related to the acquisition of a building; or (3) lease rental costs for land and relocatable structures, trailers, and modularized structures, unless the structure meets the conditions of “permanent” construction.

Further guidance on the charter school facility lease program is available from the PDE’s Division of School Facilities, which is responsible for administering this program.

17. Employment and Certification of Charter School Teachers and Administrators

Employment of Teachers and Administrators

Teachers and administrators of charter schools must be direct employees of a charter school’s board of trustees. *Richard Allen Preparatory School v. School District of Philadelphia*, 123 A.3d 1101 (Pa. Cmwlth. 2015). The CSL defines a charter school administrator as the chief executive officer of the charter school and all other employees of a charter school who by virtue of their position exercise management or operational oversight responsibilities.

An administrator of a charter school is prohibited from receiving compensation from another charter school or from a company that provides management or other services to another charter school. Administrators are public officials under the Public Official and Employee Ethics Act, 65 Pa.C.S. Chapter 11. *See also New Hope Academy Charter School v. School District of York*, 89 A.3d 731 (Pa. Cmwlth. 2014). Any individual who serves as an administrator of a charter school while receiving compensation from another charter school or a company that provides management or other services to another charter school commits a violation of the Public Official and Employee Ethics Act.

Certification of Charter School Personnel

The CSL requires that at least 75 percent of the professional staff members of a charter school hold appropriate Pennsylvania certification. Principals, special education teachers and supervisors, school nurses, and school psychologists employed by charter schools must hold appropriate state certification and cannot be counted toward the 25 percent of professional staff that do not have to hold appropriate certification.

In order to be counted toward the 75 percent, an individual must hold an active and valid professional certification and must be properly certified in all areas or subjects they are teaching or hold an emergency permit for the proper area/subject being taught. Only teachers who meet the criteria outlined in 22 Pa. Code § 354.25 may serve as cooperating teachers of individuals participating in student teaching programs (Teacher Preparation).

The Chief Executive Officer of a charter school is not considered to be a professional staff member of a charter school. However, an individual’s title does not necessarily convey the person’s job duties and responsibilities. If a CEO actually performs the duties of a principal, that individual must hold appropriate state certification as a principal. For more information on appropriate certification in charter schools, see the Certification and Staffing Policy Guidelines, CSPG No. 24.
Induction Programs

Each charter school must submit to PDE a plan for the induction of first-year teachers and certain long-term substitutes in accordance with 22 Pa. Code § 49.16. For more information on induction programs, see CSPG No. 20.

Evaluation of Charter School Employees

ESSA and Pennsylvania’s Consolidated State Plan require PDE to annually collect and report data related to experienced, properly credentialed, and effective/ineffective educators on an annual basis, including administrators and teachers employed by each charter school. The definition of effective educator for that purpose is based upon the Classroom Teacher Effectiveness Evaluation System. In order to comply with the requirements of ESSA and the requirements of Pennsylvania’s Consolidated State Plan, charter schools are required to use the Classroom Teacher Effectiveness Evaluation System as the method for measuring and reporting aggregate totals of effective and ineffective teachers employed by the charter school. As section 1123 of the School Code is not applicable to charter schools, charter schools are not required to evaluate administrators or teachers using the Classroom Teacher Effectiveness Evaluation System for purposes related to an individual’s employment with the charter school.

18. Healthcare and Retirement Benefits

Healthcare Benefits

Every employee of a charter school shall be provided the health care benefits equal or greater than the employee would receive if he or she worked for the chartering school district. The chartering school district may require the charter school to provide the benefits under the same coverages and costs as 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.

Retirement Benefits

The CSL requires that all employees of a charter school be enrolled in the Public School Employees’ Retirement System (PSERS) unless the charter school employer sponsors another PSERS-approved retirement plan that covers the employees. A charter school employer may also choose to enroll some of its employees in PSERS and enroll others into another plan, provided that such plan is approved by PSERS. If any of the charter school’s employees are enrolled in PSERS as part of their employment with the charter school, the charter school would be considered a “participating” employer. If the employee of a charter school is not eligible to participate in another approved retirement plan or is given the option of participating in another approved retirement plan and chooses not to, then the employee must be enrolled in PSERS.

Charter schools are required to make contributions to the Public School Employees’ Retirement Fund for the benefit of its employees, in addition to contributing PSERS contributions by employees which have been deducted from such employee’s paychecks. Section 8327(b)(2) of the Public School Employees’ Retirement Code provides that when a charter school fails to make required employee and employer payments to the Public School Employees’ Retirement Fund, PDE shall deduct the unpaid amount from the Basic
Education Funding (BEF) of the chartering school district and remit such payment to the Public School Employees’ Retirement Fund. Accordingly, when the Public School Employees’ Retirement Board certifies to PDE that a charter school has failed to make required payments to the Public School Employees’ Retirement Fund and is determined to be delinquent, PDE deducts the delinquency from the BEF of the chartering school district to pay the fund. The chartering school district may then offset this deduction against any payment due to the charter school.

Charter schools or charter school employees may contact PSERS for additional information regarding obligations.

19. **Special Education**

Charter schools, like all other public schools, cannot refuse enrollment to any student based on a disability. Students with disabilities attending charter schools—and their parents—retain all rights and protections under IDEA that they would have if attending their school district of residence. That is, 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, a school district of residence must provide a copy of a student’s records to the charter school, including the most recent individualized education program (IEP) for that student. School districts and charter schools must cooperate in the transfer of records. Receipt of the records is critical to determining and providing the appropriate educational services for the students.

Upon enrollment, a charter school must adopt and implement a student’s existing IEP until its expiration, or promptly convene an IEP team meeting to discuss, develop, and implement a new IEP in accordance with the IDEA or initiate a reevaluation.

A school district is not required to pay a charter school the charter school tuition rate for a special education student until that student has been identified as a student with a disability eligible for special education services and has an IEP. 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 parental consent. Therefore, to validate to a school district of residence that a student is eligible for special education services, a charter school is required to, and may only, provide the school district of residence with the cover sheet of the most recent 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.

Upon a student’s disenrollment from a charter school, the charter school is responsible for forwarding the student’s educational records, along with the most recent IEP, within 10 school days after the charter school is notified in writing that the student is enrolled at another school entity.

Charter schools must also maintain educational records for special education students consistent with the Family Educational Rights and Privacy Act of 1974.

Intermediate Units (IUs) will work cooperatively with charter schools that seek assistance for students with disabilities so that these students are provided with FAPE.
20. Career and Technical Education

Some students choose to attend a charter school and may also wish to enroll in educational programs offered by a career and technical school. School districts and career and technical schools often enter into negotiated agreements that include the provision of career and technical education to school district students at a certain cost at a career and technical school. However, charter schools are not party to the negotiated agreements between school districts and career and technical schools.

When a student chooses to attend a charter school, the student chooses the charter school’s educational offerings, which may not include a career and technical education. A charter school may, but is not required to, contract with a career and technical school to provide a career and technical education option for its students. It is the responsibility of the charter school to decide whether to make a career and technical education curriculum available to the student and, if so, to contract with a career and technical school for the provision of these services. A charter school is required to provide the option for career and technical education if such programming is included in a student’s IEP.

If a charter school does provide a career and technical education option, the charter school shall receive the full charter school tuition rate to which it is entitled from the student’s school district of residence, 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 is not responsible for paying a career and technical school for the career and technical education received by a charter school student.

PDE 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:

Related BECs

BEC 24 P.S. § 17-1741-A – 1751-A, Cyber Charter School Use of Physical Facilities

BEC 24 P.S. §§ 17-1741-A, Cyber Charter Schools

BEC 24 P.S. §13-1301 - § 13-1306, Enrollment of Students

BEC 24 P.S. §§ 13-1326 – 13-1354, Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences

BEC 24 P.S. § 1306, Nonresident Students in Institutions

BEC 22 Pa. Code § 349.28, Subsidy Payments on Closed School Buildings

CSPGs

CSPG No. 024, Appropriate Certification in Charter Schools in Pennsylvania
CSPG No., 020, Induction

Statutes

23 Pa.C.S. §§ 6301 – 6386
24 P.S. § 3-328
24 P.S. § 11-1123
24 P.S. § 13-1306
24 P.S. § 13-1308
24 P.S. § 13-1317.2
24 P.S. § 13-1318
24 P.S. § 15-1525
24 P.S. § 17-1701-A to § 17-1732-A
24 P.S. § 25-2574.3
24 P.S. § 8327(b)(2)

65 Pa.C.S. §§ 1101-1113
65 P.S. §§ 67.101 – 67.3104
65 Pa.C.S. §§ 701-716

20 U.S.C. § 1232g

Regulations

22 Pa. Code Chapter 4
22 Pa. Code Chapter 10
22 Pa. Code Chapter 12
22 Pa. Code Chapter 14
22 Pa. Code Chapter 49
22 Pa. Code § 349.30
22 Pa. Code § 354.25
22 Pa. Code Chapter 711
34 CFR Part 99

Cases


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