

Cyber Charter Schools

24 P.S. §17-1741-A

DATE OF ISSUE: September 1, 2006

PURPOSE

This Basic Education Circular provides guidance for cyber charter schools, school districts, parents, and students.

- In some instances, this document cites legal requirements contained in the Charter School Law, applicable regulations, or court decisions. Those requirements should be viewed accordingly and cyber schools and school districts must comply.
- This document also assists cyber charter schools and school districts in addressing governance, operational, or instructional issues, among others. Public school entities are encouraged to apply the law and these guidelines as they interact cooperatively for the benefit of all school children.
- Many of the provisions in this Basic Education Circular (BEC) refer the reader to the Charter School BEC (24 P.S. §17-1701-A), because the guidance is the same for both cyber charter schools and building-based charter schools. However, when reading the Charter School BEC in the context of cyber charter schools, PDE replaces the chartering school district as the oversight entity for renewed and newly chartered cyber charter schools.

The link to the [Charter Schools](#) webpage will provide a list of approved cyber charter schools in Pennsylvania; scroll down and click on *Cyber Charter Schools Listing*.

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*
- *Site Visits*
- *Annual Reports*
- *Records Access*
- *Facilities Access*
- *Parent Complaint Procedures*

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*
- *Residency*
- *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

17. School Health Services

18. Providing College Courses

1. Application Process and Charter Issues

Cyber charter schools are established when the Pennsylvania Department of Education (PDE) grants the cyber charter applicant a charter. Section 24 P.S. §17-1745-A of the Charter School Law identifies who may establish a cyber charter school.

Oversight

PDE is responsible for the oversight of cyber charter schools that it has chartered, including decisions whether to renew, non-renew or revoke the charter. The charter of a cyber charter school, approved by a school district under Sections 1717-A or 1718-A of the Charter School Law, that provides instruction through the Internet or other electronic means, remains in effect for the duration of the charter. Cyber charter schools that had their charter initially approved by a school district must seek renewal of their charter from PDE.

Innovation

At the heart of the Charter School Law is the idea that cyber charter schools will serve as laboratories of innovation on behalf of all of Pennsylvania's schools. Therefore, a cyber charter school applicant must demonstrate that the proposed cyber charter school will provide innovative and unique educational opportunities for students beyond what is currently in operation. A cyber charter school, as part of its overarching mission, is expected to offer students an alternative means of achieving academic proficiency. A successful cyber charter school must be grounded in accountability for academic success. The educational programs offered by the charter school should emphasize the development and broad dissemination of best practices, in the context of ensuring the flexibility and innovative atmosphere that are inherent in cyber charter schools.

Incorporation

A cyber charter school must be incorporated as an independent, public, non-profit corporation and cannot be the subsidiary of another entity, or in any way connected with, or under the control of another entity. In its application, the cyber charter applicant must provide a copy of the cyber charter school's articles of incorporation that have been filed with the Pennsylvania Department of State in order to verify that it is an independent, public, non-profit corporation. Each cyber charter school must have its own charter and Board of Trustees.

Facilities

The Charter School Law requires a cyber charter applicant to provide, "The addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements." 24 P.S. §17-1747-A (16). In addition, a cyber charter school must maintain an administrative office in the Commonwealth where student records shall be maintained. Therefore, a cyber charter school may have more than one facility or office, but the address and ownership of each must be provided to the Department. 24 P.S. §17-1743-A (h).

Management Contracts

A cyber charter school may contract with a for-profit entity for the provision of professional and/or non-professional services to the cyber charter school. However, the cyber charter school's Board of Trustees must maintain ultimate control of the cyber charter school. If a

cyber charter school is to be managed by an outside entity, the cyber charter school must provide a finalized management agreement in its cyber charter application. PDE will review the management agreement to ensure that the charter school's Board of Trustees maintains ultimate control of the cyber charter school. *See, West Chester Area School District v. Collegium Charter School*, 571 Pa. 503, 812 A.2d 1172 (2002); *School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Commw. 2001).

Sustainability

A cyber charter school must demonstrate that it has sustainable support by teachers, parents or guardians, and students in order to be granted a charter. The Charter School Appeal Board (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 a charter school application." *Brackbill v. Ron Brown Charter School*, 777 A.2d 131, 138 (Pa. Commw. 2001).

There must be sufficient support, however, from at least two of the three groups. Sustainable support can be demonstrated by signed petitions of support, letters of support, testimonials of support or in other concrete ways. However, this does not mean that the support must be in the form of enrollments, or pre-enrollments, or personal verbal commitments to sending one's children to the cyber charter school.

Criminal History Records

The Charter School Law also requires an applicant to include a criminal history record and an official clearance statement regarding child injury or abuse. 24 P.S. §17-1719-A (15), (16). Since most cyber charter school applicants have not hired staff when the application is submitted to PDE, it may be impossible to provide criminal history records and child abuse clearances at the time of submitting the application. These documents must be provided to PDE as soon as staff has been hired. *See, Vitalistic Therapeutic Charter School*, CAB 1999-5, p. 8; *William Bradford Academy Charter School*, CAB 1999-8, p.18, n. 6.

Amendment of Charter

If a cyber charter school wants to amend its charter, it must provide PDE's Division of Nonpublic, Private and Charter School Services with a written proposal outlining the amendment, at least 60 days prior to submission of the amendment, explaining the requested amendment and its purpose. PDE will notify the cyber charter school, in writing, that it approves or disapproves the proposed amendment and its effective date.

Please_note: The cyber charter school may not unilaterally amend material provisions of its charter, including but not limited to: changing its curriculum, changing its location, or changing its mission and focus.

Conversion

There are no provisions allowing a public school to be converted to a cyber charter school.

Regional Charter School

Section 1723-A of the Charter School Law states that "all resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b)."

Section 1718-A of the Charter School Law allows for the creation of a regional charter school. However, Act 88 amended the Charter School Law by adding a subsection pertaining specifically to cyber charter schools.

Section 1718-A, which addresses regional charter schools, is not applicable to cyber charter schools. Therefore, any new cyber charter school that seeks a charter from the Department cannot be regional. In addition, when any cyber charter school that was chartered as a regional cyber charter school, prior to Act 88, applies to the Department for renewal, its charter cannot be renewed as a regional cyber charter school.

Section 1749-A of Act 88 sets forth other provisions of the Charter School Law, as well as other laws and regulations that are applicable to cyber charter schools.

Charter School Appeal Board

When PDE denies a cyber charter school applicant a charter, the applicant may revise and resubmit the denied application or may appeal the denial to the Charter Appeal Board. A cyber charter school applicant may only revise and resubmit a denied application to PDE one time. Any revised and resubmitted application must be provided to PDE within at least 120 days prior to the originally proposed opening date of the cyber charter school.

2. Charter School Board of Trustees

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

3. Oversight

Working Cooperatively

In Section 1702-A of the Charter School Law, the legislature made clear its intent to provide for the creation of "schools that operate independently from the existing school district structure."

Section 1741-A has established certain powers and duties upon PDE. Those duties include annually assessing:

1. whether a cyber charter school is meeting the goals of its charter;
2. whether a cyber charter school is in compliance with its charter; and,
3. the cyber charter school's performance on the PSSA, standardized tests and other performance indicators to ensure compliance with academic standards.

PDE also must conduct a comprehensive review of a cyber charter school prior to granting a five-year renewal of the charter. 24 P.S. §17-1742-A. This review will include, but not be limited to, an examination of specific program areas by PDE staff.

Cyber charter schools must work cooperatively with PDE to ensure that they are operating in a fiscally responsible manner and providing quality educational services to students. They

must provide sufficient and accurate information for PDE to fulfill its oversight responsibilities.

Site Visits

PDE will arrange periodic visits to the cyber charter school main offices and/or other educational sites, which may include random parent and student contacts. PDE staff will use the PA System of Cyber Charter Review (PASCCR) when conducting specific monitoring site visits. The PASCCR framework can be found on the Department's website, on the Charter School webpage.

As part of the site visit the PDE staff will expect to be provided access to the following information:

- Student performance data e.g. Reports cards, attendance records, discipline, etc
- Professional development plans for staff
- Enrollment records
- Teacher criminal history and child abuse reports
- Direct observation of teachers working with students
- Hardware and software used by the school
- Board of Trustee meeting minutes
- Board approved school calendar
- Fiscal records
- Audit reports
- Lease or purchase agreements for school building/office
- Lease or purchase agreements for student supporting equipment
- Parent, student and teacher handbooks
- School policies related to student and teacher conduct
- Administrative procedures for parent/student input and complaints
- Student health records and academic files
- Special education student records with IEP's
- Other items as deemed necessary by PDE staff

Annual Reports

To help PDE perform the annual assessment, all charter schools are required to submit an Annual Report to PDE no later than August 1 of each year. This document is an important tool for evaluation of the cyber charter school. The information collected from the Annual Reports will be used to help make decisions about renewal or non-renewal of the charter. Repeatedly submitting Annual Reports after the due date or providing insufficient information may constitute a material violation of the charter. If a cyber charter school fails to provide an Annual Report by August 1, PDE will provide written notice to the cyber charter school that failure to provide the Annual Report within a reasonable amount of time may result in the initiation of revocation proceedings.

Records Access

As part of PDE oversight the cyber charter schools are required to provide PDE staff access to records, instructional materials and student and staff records 24 P.S. §17-1742-A. This oversight will include providing PDE with necessary protocols for on-line access to web pages that students and parents would see and to the cyber charter school's internal administrative links. The cyber charter school shall allow site visits and provide specifically requested reports within a reasonable period of time to ensure that the cyber charter school

is in compliance with the charter, the law, testing, civil rights, and student health and safety. Failure to provide requested on-line access and reports to PDE may result in the initiation of revocation proceedings.

The cyber charter school will have safeguard protocols in place to guard against unauthorized access to student electronic records. Cyber charter schools will have the capability to provide written copies of student records when requested and approved by the parent or student. Student records will be maintained in accordance with FERPA and state regulations and a secured backup system will be in place.

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Facilities Access

Cyber charter school offices and education centers shall be available for PDE staff to visit any time the school is in operation and interacting with students. Refusal of a cyber charter school to allow PDE access to any facility may result in the initiation of revocation proceedings.

Parent Complaint Procedure

The Pennsylvania Department of Education is responsible for the intake, investigation and resolution of complaints concerning students enrolled in cyber charter schools. When possible, the complaint should be in writing and sent to the Division of Nonpublic, Private, and Charter School Services. After receiving the complaint, the Department will determine if it merits referral to an existing complaint procedure (e.g., special education, professional employee misconduct).

If the complaint cannot be referred under existing procedures, then the redacted, written complaint (or paraphrased oral complaint), will be forwarded to the cyber charter school for a response. The cyber charter school will have ten business days to issue a written response. After receipt of the cyber charter school response, the Department will determine if the complaint is resolved, or if further investigation is required.

4. Accountability

The Pennsylvania Accountability System that applies to all public schools in the Commonwealth can be found at the following web link:

School districts and cyber charter schools are encouraged to work cooperatively to accommodate students' needs in mandated testing. Section 1744-A (2) states an intermediate unit or a school district shall provide the cyber charter school with reasonable access to its facilities for the administration of standardized tests required under this subdivision.

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Strategic Planning and School Improvement

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

5. Renewals or Closure of Cyber Charter School

Renewal Procedures

A cyber charter school seeking renewal of its charter must complete a renewal application and submit it to PDE between July 1 and October 1 of the final year of its current charter. PDE will begin the renewal process by reviewing the renewal application and previously submitted Annual Reports.

During its review of the renewal application and the Annual Reports, PDE may determine that it needs additional information from the cyber renewal applicant or that corrections are needed in certain areas in order for PDE to renew the charter. In such cases, PDE will notify the applicant as soon as possible about the needed information or corrections and provide a time period by which such information or corrections should be submitted to PDE. PDE will then make a timely decision regarding the renewal or non-renewal of the charter.

Nonrenewal

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Immediate Revocation

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

PDE also has the authority to immediately revoke the charter of a cyber charter school if:

1. a material component of the student's education as required under subdivision (c) of the Charter School Law is not being provided; or
2. the cyber charter school has failed to maintain the financial ability to provide services required under subdivision (c) of the Charter School Law. 24 P.S. §17-1741-A (3)(ii).

Revocation or Closure

Immediately upon revocation of the charter or decision to close the cyber charter school, the Board of Trustees shall, by Board resolution, authorize the person who will be responsible for concluding the affairs of the cyber charter school and provide to the Department of Education, Bureau of Community and Student Services, Division of Nonpublic, Private and Charter School Services, a copy of this Board resolution and the name, address, phone number, fax number and email address of this person.

6. Attendance Issues

Enrollment

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

A cyber charter school shall report to the Department an increase or a decrease of 30% or more in its anticipated enrollment set forth in the application under Section 1747-A(11)

Residency

The Charter School Law defines a student's school district of residence as the school district in this Commonwealth in which the parents or guardians of a child reside. 24 P.S. §17-1703-A. Section 1302 of the Public School Code, which is applicable to cyber charter

schools, provides that a child shall be considered a resident of the school district in which his or her parent(s) or guardian resides. 24 P.S. §13-1302(a).

In interpreting Section 1302, the Pennsylvania Supreme Court defined residence as “a factual place of abode evidenced by a person’s physical presence in a particular place.” *In Re: Residence Hearing Before the Board of School Directors*, 744 A.2d 1272 (Pa. 2000). Therefore, the school district of residence of a student attending a cyber charter school is the school district in the Commonwealth where the student’s parents or guardians have a factual place of abode evidenced by their physical presence at that particular place.

See [22 Pa. Code §11.11](#) if parents reside in different school districts due to separation, divorce or other reasons.

Kindergarten

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Compulsory Attendance

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Students Institutionalized from a Charter School

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Expelled or Suspended Students

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

7. Discipline

Weapons Possession

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Discipline Policies

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Due Process

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

8. Transportation

Cyber charter school students are not required to attend a specific facility to receive their educational services, therefore, the Charter School Law does not require that a student’s school district of residence provide transportation for cyber charter school students. Should transportation be required as a related service in the IEP of a student with disabilities, who is enrolled in a cyber charter school, the cyber charter school must provide the required transportation.

9. Extracurricular Activities

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

Students who are enrolled in a cyber charter school are eligible to participate in a school district of residence sponsored extracurricular activity if the student is able to fulfill the requirements of participation and the cyber charter school does not provide the same extracurricular activity.

Cyber Charter Schools and School Districts are encouraged to communicate the requirements for participation in extracurricular activities that may include, but not be limited to, specific grades and attendance of the student. To release this information to a school district, it must first receive parent permission.

10. Payments to Charter Schools

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

11. Master Agreement and Major Grant Programs

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

12. Facilities

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

The resident school district and/or IU must provide the cyber charter school with reasonable access to the school district and/or IU facilities for the administration of standardized tests required under subdivision (c) of the Charter School Law. 24 P.S. §17-1744-A (2).

13. Highly Qualified and Certification of Charter School Teachers

[Charter School-Highly Qualified Teacher Requirements](#) (PDF)

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

14. Health Care Benefits

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

The local district referenced in Section 1724-A shall be determined as the location of the cyber charter school's administrative office.

15. Special Education

See the [Charter School BEC, 24 P.S. §17-1701-A](#) with the following addition.

The Charter School Law ("CSL") requires that, upon request, assistance must be provided to charter schools and cyber charter schools to address the needs of students with disabilities. Because there has been confusion about what "assistance" the CSL requires to be provided to students with disabilities enrolled in a charter school or a cyber charter school, the Department's position on this issue is stated below.

The CSL requires the Intermediate Unit ("IU") in which a charter school is located to provide the charter school, upon request, with "services to assist the charter school to address the specific needs of exceptional students." However, for cyber charter schools, the CSL requires that upon request, the IU or school district in which a student resides must "provide assistance, to the cyber charter school in the delivery of services to a student with disabilities." In either case, an IU or school district may not charge a charter school or a cyber charter school more for such services than they charge school district.

The Department's interpretation of the "assistance" required by the CSL is that an IU or a school district is generally not required to provide direct services to charter school or cyber charter school students with disabilities. However, at a minimum and upon request, assistance must be provided to help a charter school or a cyber charter school locate providers who could provide services necessary to address the needs of their students with disabilities. This would include providing the names of providers, contact information, etc.

The goal of all segments of the educational community should be to ensure that all students receive appropriate educational services. Thus, the Department expects and encourages school districts, IUs and cyber charter schools to work together to ensure that appropriate educational services are provided to all students with disabilities.

16. Charter Schools and Career and Technical Education

See the [Charter School BEC, 24 P.S. §17-1701-A](#).

17. School Health Services

Cyber Charter Schools must provide health services to all students as described under School Health Services, Article XIV of the PA Public School Code.

18. Providing College Courses

Charter schools may contract with post-secondary educational institutions to provide course work as part of their curriculum. However, charter schools may only grant their students high school credit for such courses, and may not award post-secondary credit for those courses.

REFERENCES:

Purdon's Statues

24 P.S. §17-1701-A to §17-1751-A

Other

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

School District of the City of York v. Lincoln-Edison Charter School, 772 A.2d 1045 (Pa. Commw. 2001).

Brackbill v. Ron Brown Charter School, 777 A.2d 131, 138 (Pa. Commw. 2001)

Vitalistic Therapeutic Charter School, CAB 1999-5, p. 8; William Bradford Academy Charter School, CAB 1999-8, p.18, n. 6.

Listing of Cyber Charter Schools: click on [Charter Schools](#) link, scroll down and click on *Cyber Charter Schools List*.

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