

**Statement Regarding Rescission of the  
Guidelines for Form Completion, PDE-363, Funding for Charter Schools (July 2012)**

Since 1997, the Pennsylvania Department of Education (PDE) has instructed school districts to utilize the PDE-363 form to calculate its nonspecial education and special education charter school funding rates under section 1725-A of the Charter School Law (CSL), 24 P.S. § 17-1725-A. In July of 2012, following various meetings and discussions with representatives of the charter school community, school districts, and the General Assembly, PDE prepared and issued the current (July 2012) version of the *Guidelines for Form Completion, PDE-363, Funding for Charter Schools* (Guidelines). See Attachment A. The Guidelines were intended to implement the charter school funding requirements of section 1725-A of the CSL, and provide a verifiable process for initial and final calculation of each school district's nonspecial education and special education rates. Through the Guidelines, PDE recognized that the information necessary for determining a school district's expenditures and average daily membership (ADM) is not available at the start of a school year, when a district is to first determine its nonspecial education and special education rates under section 1725-A(a)(2) and (3) of the CSL. Therefore, the Guidelines set forth a process to permit additional confidence in the accuracy of rates calculated and paid by each school district. That process ultimately used a school district's annual financial report (AFR) submitted to PDE under section 218 of the Public School Code, 24 P.S. § 2-218, and ADM as defined in section 2501 of the Public School Code, 24 P.S. § 25-2501, to calculate each school district's final charter school funding rates. The Guidelines have been in use since July 2012, and they were successful in reducing the number of disputes between school districts and charter schools relating to the accuracy of the calculated rates.

In April 2017, a group of charter schools filed a petition for review in the Commonwealth Court challenging the Guidelines. These charter schools alleged that the Guidelines are inconsistent with section 1725-A of the CSL in that the Guidelines recommend that school districts calculate their charter school funding rates based upon expenditures included in their AFR, rather than the amounts in the budgets submitted to PDE prior to the beginning of the previous school year. Following a hearing on the Charter Schools' request for a preliminary injunction, the court opined that "the Guidelines [are] flatly inconsistent with the CSL . . . ." *First Philadelphia Preparatory Charter Sch., et al. v. Pa. Dep't of Educ., et al.*, No. 159 MD 2017 (Pa. Cmwlth., July 19, 2017 Memorandum Opinion, Pg. 8) (*First Philadelphia*). While the court recognized that the Guidelines present a fair and appropriate means to calculate charter school tuition rates, the court also advised that proper implementation of the process would require legislative amendments.

In further proceedings, the court issued an Opinion stating that the Guidelines are in derogation of the plain language of the CSL, and thus are "*per se* invalid . . ." *First Philadelphia*, No. 159 MD 2017 (Pa. Cmwlth., February 22, 2018 Opinion, Pg. 12). While the court has not yet issued a final order regarding the Guidelines, it has strongly indicated it will ultimately find that the Guidelines are in conflict with the language of the CSL.

**Accordingly, PDE is hereby rescinding the July 2012 version and all prior versions of the Guidelines, effective immediately.** Beginning with the 2018-2019 school year, PDE will no longer receive completed PDE-363 forms from school districts or post charter school funding

rates on its website. Further, PDE will not calculate each school district's charter school funding rates using AFR and ADM information. Instead, each school district should calculate its own nonspecial education and special education charter school funding rates pursuant to the direction in section 1725-A(a)(2) and (3) of the CSL and make that information available to charter schools as necessary to explain the amounts paid throughout the school year. Any disputes concerning the amounts paid by a school district to a charter school should be resolved pursuant to the procedures in section 1725-A(a)(5) and (6) of the CSL.

The September 2017 Excel document containing the school district-calculated charter school funding rates 2017-2018 rates will remain posted on PDE's website through the 2018-2019 school year. These rates are based on the PDE-363 forms completed and submitted to PDE by each district. PDE has also posted a PDF file of the PDE-363 forms received from districts upon which these rates in the Excel file are based. If a district did not complete and submit a PDE-363 form to PDE on a timely basis, the district's final rates from the 2016-2017 school year were carried over as that district's 2017-2018 rates in the September 2017 Excel document. The Excel documents containing the final 2016-2017 rates and calculation data will also remain posted on PDE's website through the 2018-2019 school year. These Excel files remain posted for informational purposes. As explained above, any disputes concerning the amounts paid by a school district to a charter school should be resolved pursuant to the procedures in section 1725-A(a)(5) and (6) of the CSL.

Issued: March 16, 2018  
Revised: March 30, 2018 (to add the last paragraph)

## **Guidelines for Form Completion PDE-363, Funding for Charter Schools**

The following guidelines have been developed by the Pennsylvania Department of Education (Department) to accurately implement the provisions of Section 1725-A(a) of the Charter School Law, 24 P.S. § 17-1725-A(a).

The current form PDE-363 Excel template can be found online at: [www.education.state.pa.us](http://www.education.state.pa.us). Select Data and Statistics; Finances; Financial Documents.

The Excel file containing calculated selected expenditure per average daily membership (ADM) rates for nonspecial and special education can be found online at: [www.education.state.pa.us](http://www.education.state.pa.us). Select Programs; Programs A-C; Charter Schools; Charter School Funding.

\* \* \* \* \*

The following procedures shall apply to each school district:

- A. Each school district shall complete a PDE-363 each year using the official Excel calculation template found on the Department's website. The form shall be completed with the most currently available expenditure data.
- B. A completed PDE-363 shall be filed with the Department no later than July 31 of the fiscal year for which the form is being completed. For the 2012-13 fiscal year, PDE-363 shall be filed no later than August 8, 2012.
- C. As provided for on the Excel template, a school district may include the federal portion of expenditure sub-functions in the "Deductions from Total Expenditures" section of the PDE-363. However, expenditures using the federal portion of Basic Education Funding (ARRA-SFSF or EdJobs) may *not* be included as federal expenditures.
- D. Following the submission date in B above, the Department will post an Excel file on its website containing each school district's selected expenditure per ADM rates for nonspecial and special education based on the accepted PDE-363 submitted to the Department. If a school district fails to submit a PDE-363 by the deadline, the Department will post the rates from the previous school year. After rates are posted, changes to the PDE-363 will not be permitted except as provided in E and F below.
- E. In January, the Department will calculate each school district's selected expenditure per ADM rates for nonspecial and special education using preliminary data reported on each school district's Annual Financial Report (AFR) and preliminary ADM. An updated Excel file containing these rates will be posted on the Department's website.
- F. In May, the Department will calculate each school district's selected expenditure per ADM rates for nonspecial and special education using final, approved data reported on a school district's AFR and final ADM. A final Excel file containing these rates will be posted on the Department's website.
- G. Charter schools shall utilize the rates listed on the most current Excel file posted on the Department's website.
- H. Questions about these guidelines or the PDE-363 should be directed to [ra-CSFunding@pa.gov](mailto:ra-CSFunding@pa.gov).