

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 984 Session of 2013

INTRODUCED BY EVERETT, O'NEILL, CALTAGIRONE, BAKER, MILLARD,
PASHINSKI, MUNDY, HESS, DAVIDSON, MOUL, FLECK, STERN,
BENNINGHOFF, QUINN, GROVE, PEIFER, SWANGER, CARROLL, MUSTIO,
BOBACK, PICKETT, SCHLOSSBERG, LONGIETTI, MILLER, DAVIS,
MICOZZIE, KORTZ, TOBASH, SONNEY, F. KELLER AND M. K. KELLER,
MARCH 13, 2013

REFERRED TO COMMITTEE ON EDUCATION, MARCH 13, 2013

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in charter schools, further providing
6 for definitions, for powers of charter schools, for charter
7 school requirements and for powers of board of trustees;
8 providing for duties of administrators; further providing for
9 establishment of charter schools, for funding of charter
10 schools, for provisions applicable to charter schools, for
11 cyber charter school requirements and prohibitions and for
12 enrollment and notification; providing for funding for cyber
13 charter schools and for actual costs of educational services
14 for cyber charter schools; and further providing for
15 applicability of other provisions of the act, other acts and
16 regulations.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 1703-A of the act of March 10, 1949
20 (P.L.30, No.14), known as the Public School Code of 1949, is
21 amended by adding definitions to read:

22 Section 1703-A. Definitions.--As used in this article,

23 * * *

1 "Charter" shall mean a contract formed between a local board
2 of school directors and a charter school or between the
3 Department of Education and a cyber charter school.

4 * * *

5 "Charter school foundation" shall mean a nonprofit
6 organization as defined under section 501(c)(3) of the Internal
7 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §501(c)(3))
8 that provides funding or resources to a charter school or cyber
9 charter school, either directly or through an affiliated entity.

10 * * *

11 "Financial relationship" shall mean any formal or informal
12 arrangement pursuant to which a person is obligated to make
13 payment or in fact makes payment to an individual, group of
14 individuals or any entity.

15 "Immediate family member" shall mean a grandparent, parent,
16 spouse, former spouse, child, grandchild, brother, sister or
17 cousin; a child of a spouse, former spouse, brother, sister or
18 cousin; or a spouse or former spouse of a grandparent, parent,
19 child, grandchild, brother, sister, cousin, nephew or niece.
20 Family members in these categories of relationship shall include
21 first degree, in-law, half, adopted and step-relatives.

22 * * *

23 Section 2. Section 1714-A(a)(5) of the act, amended July 4,
24 2004 (P.L.536, No.70), is amended and the section is amended by
25 adding a subsection to read:

26 Section 1714-A. Powers of Charter Schools.--(a) A charter
27 school established under this act is a body corporate and shall
28 have all powers necessary or desirable for carrying out its
29 charter, including, but not limited to, the power to:

30 * * *

1 (5) Make contracts and leases for the procurement of
2 services, equipment and supplies[.], as long as no contract or
3 lease entered into by a charter school for an amount greater
4 than one hundred dollars (\$100) may provide for a payment in
5 excess of the fair market value of the services, equipment,
6 supplies or other property being acquired or leased.

7 * * *

8 (d) The powers enumerated in this section may be subject to
9 additional terms and conditions regarding the application and
10 renewal process as outlined in the charter agreement between a
11 charter school and a school district.

12 Section 3. Section 1715-A(11) of the act, added June 19,
13 1997 (P.L.225, No.22), is amended and the section is amended by
14 adding a clause to read:

15 Section 1715-A. Charter School Requirements.--Charter
16 schools shall be required to comply with the following
17 provisions:

18 * * *

19 (11) Trustees of a charter school shall be public
20 officials[.] and subject to the provisions of 65 Pa.C.S. Ch. 11
21 (relating to ethics standards and financial disclosure). A
22 violation of this clause shall constitute a violation of 65
23 Pa.C.S. § 1103(a) (relating to restricted activities), and the
24 violation shall be subject to the penalties imposed under the
25 jurisdiction of the State Ethics Commission.

26 * * *

27 (13) (i) For the 2013-2014 school year and each school year
28 thereafter, a charter school shall not accumulate an unassigned
29 fund balance greater than the charter school fund balance limit,
30 which shall be determined as follows:

1	<u>Charter School Total</u>	<u>Maximum Unassigned Fund</u>
2	<u>Budgeted Expenditures</u>	<u>Balance as Percentage of</u>
3		<u>Total Budgeted</u>
4		<u>Expenditures</u>
5	<u>Less than or equal to \$11,999,999</u>	<u>12%</u>
6	<u>Between \$12,000,000 and \$12,999,999</u>	<u>11.5%</u>
7	<u>Between \$13,000,000 and \$13,999,999</u>	<u>11%</u>
8	<u>Between \$14,000,000 and \$14,999,999</u>	<u>10.5%</u>
9	<u>Between \$15,000,000 and \$15,999,999</u>	<u>10%</u>
10	<u>Between \$16,000,000 and \$16,999,999</u>	<u>9.5%</u>
11	<u>Between \$17,000,000 and \$17,999,999</u>	<u>9%</u>
12	<u>Between \$18,000,000 and \$18,999,999</u>	<u>8.5%</u>
13	<u>Greater than or equal to \$19,000,000</u>	<u>8%</u>
14	<u>(ii) Any unassigned fund balance in place as of the most</u>	
15	<u>recently completed fiscal year that exceeds the charter fund</u>	
16	<u>balance limit shall be refunded on a per student pro rata basis</u>	
17	<u>within sixty (60) days of the effective date of this subclause</u>	
18	<u>to all school districts that made payments pursuant to section</u>	
19	<u>1725-A in the 2011-2012 and 2012-2013 school years. The funds</u>	
20	<u>may not be used to pay bonuses to any administrator, board of</u>	
21	<u>trustees member, chief executive officer, employe, staff or</u>	
22	<u>contractor, to pay for media advertisements, including</u>	
23	<u>television, radio, movie theater, billboard, bus poster,</u>	
24	<u>newspaper, magazine, the Internet or any other commercial method</u>	
25	<u>that may promote student enrollment in a charter school or to</u>	
26	<u>pay for lobbying, legislative advocacy consulting or any effort</u>	
27	<u>to influence any member of the executive or legislative branch</u>	
28	<u>or Federal or State Government regarding the formulation,</u>	
29	<u>modification, or adoption of legislation or other policy</u>	
30	<u>affecting that charter school or all charter schools or to be</u>	

1 transferred to a charter school foundation, closely related
2 business entity or educational service provider.

3 (iii) For the 2013-2014 school year and each school year
4 thereafter, any unassigned fund balance in excess of the charter
5 school fund balance limit shall be refunded on a per student pro
6 rata basis, by August 1 of each year, to all school districts
7 that made payments under section 1725-A or section 1748.1-A in
8 the prior school year.

9 (iv) By August 15, 2013, and August 15 of each year
10 thereafter, each charter school shall provide the department
11 with information certifying compliance with this clause. The
12 information shall be provided in a form and manner prescribed by
13 the department and shall include information on the charter
14 school's estimated ending unassigned fund balance expressed as a
15 dollar amount and as a percentage of the charter school's total
16 budgeted expenditures for that school year.

17 (v) As used in this clause, "unassigned fund balance" shall
18 mean that portion of the fund balance which represents the part
19 of spendable fund balance that has not been categorized as
20 restricted, committed or assigned.

21 Section 4. Section 1716-A of the act, added June 19, 1997
22 (P.L.225, No.22), is amended to read:

23 Section 1716-A. [Powers of] Board of Trustees.--(a) The
24 board of trustees of a charter school shall have the authority
25 to decide matters related to the operation of the school,
26 including, but not limited to, budgeting, curriculum and
27 operating procedures, subject to the school's charter. The board
28 shall have the authority to employ, discharge and contract with
29 necessary professional and nonprofessional employees subject to
30 the school's charter and the provisions of this article.

1 (a.1) The board of trustees of a charter school shall have a
2 minimum of five (5) voting members. If a charter school has
3 fewer than five (5) voting members serving on its board as of
4 the effective date of this subsection, the charter school shall,
5 within sixty (60) days of the effective date, appoint additional
6 members to the board to meet the minimum requirements of this
7 subsection.

8 (b) [No member of a local board of school directors of a
9 school entity shall serve on the board of trustees of a charter
10 school that is located in the member's district.] The following
11 shall apply to all members of the board of trustees of a charter
12 school:

13 (1) No member of a local board of school directors of a
14 school entity or an immediate family member of a member of a
15 local board of school directors of a school entity may serve on
16 the board of trustees of a charter school or charter school
17 foundation that is located in the member's school district.

18 (2) No administrator or member of a local board of school
19 directors that granted or renewed a charter may serve on the
20 board of trustees of a charter school that is the subject of the
21 granted or renewed charter.

22 (3) No member of the board of trustees or an immediate
23 family member of the member of the board of trustees may be
24 employed in any capacity or have any financial relationship with
25 the local board of school directors from which the charter
26 school received its charter. No member of the board of trustees
27 of a charter school may be employed in any capacity or have any
28 financial relationship with the board of trustees.

29 (4) No member of the board of trustees or an immediate
30 family member of the member of the board of trustees may:

1 (i) be employed by the charter school or have a financial
2 relationship with the charter school; or
3 (ii) be employed by any entity that has a financial
4 relationship with the charter school or any related or
5 associated charter school foundation unless the charter school
6 complies with the requirements of 65 Pa.C.S. § 1103(f) (relating
7 to restricted activities).

8 (5) No member of the board of trustees or an immediate
9 family member of the member of the board of trustees may be
10 employed by or have a financial relationship with an educational
11 service provider which is under contract with the charter school
12 or any related or associated charter school foundation.

13 (6) A member of the board of trustees must disqualify
14 himself and abstain from voting in a proceeding which
15 constitutes a conflict of interest or where the objectivity,
16 impartiality, integrity or independence of judgment of the
17 member may be reasonably questioned.

18 (7) A member of the board of trustees shall be automatically
19 disqualified from serving on the board upon conviction for an
20 offense graded as a felony, an infamous crime, any offense
21 pertaining to the member's official capacity as a board member
22 or any crime involving moral turpitude.

23 (8) No member of the board of trustees, employe or
24 administrator of a charter school may convert to the member's
25 own use or use by way of investment or contract any portion of
26 the charter school funds or school property or deposit any of
27 the funds of the charter school in any other name.

28 (9) No business entity, including a for-profit or nonprofit
29 entity, with which a member of the board of trustees, an
30 administrator or an immediate family member of the member of the

board of trustees or administrator is associated may contract with the charter school unless the charter school complies with the requirements of 65 Pa.C.S. § 1103(f).

(10) No member of the board of trustees or a member of the immediate family of the member of the board of trustees may act as an agent for any vendor or subvendor of goods or services with the local school board or charter school.

(11) No member of the board of trustees may commingle or allow the commingling of any portion of the charter school funds or property or deposit any of the funds of the charter school in accounts unrelated to the charter school.

(12) No member of the board of trustees of a charter school may be employed by a charter school foundation or any entity affiliated with a charter school foundation. No immediate family member of a member of the board of trustees may serve on, receive compensation from or be employed by a charter school foundation or any entity affiliated with a charter school foundation.

(13) No member of the board of trustees of a charter school may be employed in any capacity or have a financial relationship with the department.

(14) Any member of the board of trustees, elected official, administrator or their immediate family members or staff determined to have engaged in any conduct in contravention of this subsection shall be immediately barred and prohibited from the handling or receipt of funds, directly or indirectly, for a period of five (5) consecutive years from the date of receipt, expenditure, oversight or handling in any fashion, directly or indirectly, of the funds of any school board, charter school, charter school foundation or appropriated by the Commonwealth,

including awards of contracts to third parties, hiring or retention of employees or consultants and the purchase or acquisition of goods or services.

(c) The board of trustees shall comply with [the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."]⁶⁵ Pa.C.S. Ch. 7 (relating to open meetings) and with the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."

(d) At least one member of the board of trustees of a charter school must be a parent of a child attending the charter school.

(e) (1) The secretary, upon request by department staff, may remove a member of a board of trustees if the secretary determines the member has refused or neglected to perform any duty imposed under this article, has violated any requirement established under this article or has committed misfeasance or malfeasance while in office as a trustee.

(2) Before a trustee is removed under clause (1), the trustee shall be provided with a written statement of the reasons for removal and an opportunity to be heard in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3) If, in the judgment of the secretary, the immediate removal of a member of the board of trustees is reasonably necessary, the removal process under this subsection may be expedited.

(4) Any person removed as a member of the board of trustees of a charter school under this subsection shall not be eligible again to serve as a member of a board of trustees or

1 administrator for a period of five (5) years from the date of
2 removal.

3 Section 5. The act is amended by adding a section to read:

4 Section 1716.1-A. Duties of Administrators.--(a) The chief
5 administrator shall have the duty of the general supervision of
6 all business affairs of the charter school, subject to the
7 direction of the board of trustees, and the following duties
8 subject to the direction of the board of trustees:

9 (1) Upon action by the board as described under this
10 article, to approve any bill or account for payment of money and
11 to prepare and sign an order for the payment of money.

12 (2) To attest in writing the execution of all deeds,
13 contracts, reports and other instruments that are to be executed
14 by the board.

15 (3) To furnish upon request all reports as required under
16 this act.

17 (4) Notwithstanding any other provisions of this act and
18 other laws, to serve as custodian of all records, offices and
19 property of the charter school.

20 (5) To receive all funds and make payments from funds on
21 proper orders approved by the board of trustees.

22 (6) To deposit funds and at the end of each month to make a
23 report to the school controller of the amount of funds received
24 and the amount dispersed during the month.

25 (7) To perform other duties pertaining to the business of
26 the charter school as required under this act.

27 (b) The following restrictions and requirements shall apply:

28 (1) No administrator may receive compensation from another
29 charter school, charter school foundation, educational service
30 provider or from any other entity that provides services to

1 another charter school.

2 (2) No administrator shall be employed by, have a financial
3 relationship with or be a member of the local school board from
4 which the charter school received its charter or, in the case of
5 a cyber charter school, the department.

6 (3) No immediate family member of an administrator may be
7 employed by or have any financial relationship with the charter
8 school unless the charter school complies with the requirements
9 of 65 Pa.C.S. § 1103(f) (relating to restricted activities).

10 (4) No administrator may be employed by or have a financial
11 relationship with an educational service provider or a subvendor
12 of the educational service provider without the approval of the
13 board of trustees.

14 (5) No immediate family member of an administrator shall be
15 employed by or have a financial relationship with an educational
16 service provider which is under contract with the charter
17 school.

18 (6) An administrator shall be dismissed upon conviction for
19 an offense graded as a felony, an infamous crime or any crime
20 involving moral turpitude.

21 (7) No business with which an administrator or an immediate
22 family member of the administrator is associated may contract
23 with the charter school unless the charter school complies with
24 the requirements of 65 Pa.C.S. § 1103(f).

25 (8) No administrator may commingle or convert to the
26 administrator's own use or use by way of investment any portion
27 of the school funds or school property or deposit any of the
28 funds of the school in accounts unrelated to the charter school.

29 (9) No administrator may act as an agent for any vendor or
30 subvendor for school supplies, program materials or related

1 educational services with the local school board.

2 (10) No administrator or an immediate family member of the
3 administrator may serve on the board of trustees, receive
4 compensation from or be employed by a charter school foundation
5 or any entity affiliated with a charter school foundation.

6 Section 6. Section 1717-A(h) and (i) (6) and (7) of the act,
7 added June 19, 1997 (P.L.225, No.22), are amended to read:

8 Section 1717-A. Establishment of Charter School.--* * *

9 (h) In the case of a review by the appeal board of an
10 application that is revoked or is not renewed, the appeal board
11 shall make its decision based on whether the decision of the
12 local board of school directors was arbitrary or capricious
13 pursuant to the local board's evaluation of the criteria
14 established in subsection (e) (2). A [decision] determination by
15 the appeal board that the local board of school directors acted
16 arbitrarily or capriciously under this subsection or a decision
17 by the appeal board under subsection (g) to grant, to renew or
18 not to revoke a charter shall serve as a requirement for the
19 local board of directors of a school district or school
20 districts, as appropriate, to [sign the] negotiate with the
21 charter school and form a written charter of the charter school
22 as provided for in section 1720-A. Should the local board of
23 directors fail to [grant the application] negotiate and sign the
24 charter within [ten (10)] thirty (30) days of notice of
25 [reversal of] the decision of the [local board of directors]
26 appeal board, the charter shall be deemed to be approved and
27 shall be signed by the [chairman of the appeal board] local
28 board of school directors and the charter applicant or the
29 chairman of the board of trustees of the existing charter
30 school.

1 (i) * * *

2 (6) In any appeal, the decision made by the local board of
3 directors shall be reviewed by the appeal board on the record as
4 certified by the local board of directors. The appeal board
5 shall [give due consideration to] determine whether the findings
6 of the local board of directors are arbitrary or capricious and
7 specifically articulate its reasons for [agreeing or disagreeing
8 with those findings] the determination in its written decision.
9 The appeal board shall have the discretion to allow the local
10 board of directors and the charter school applicant to
11 supplement the record if the supplemental information was
12 previously unavailable, to submit written briefs, to make oral
13 argument in person or to provide other relevant information.

14 (7) Not later than thirty (30) days after the date of notice
15 of the acceptance of the appeal, the appeal board shall meet to
16 officially review the certified record and, if allowed by the
17 appeal board, to consider any written briefs, oral argument and
18 other relevant information.

19 * * *

20 Section 7. Sections 1725-A(a)(2), 1732-A(a), 1743-A(a)(1)
21 and 1748-A of the act, added or amended June 29, 2002 (P.L.524,
22 No.88), are amended to read:

23 Section 1725-A. Funding for Charter Schools.--(a) Funding
24 for a charter school shall be provided in the following manner:

25 * * *

26 (2) For non-special education students, the charter school
27 shall receive for each student enrolled no less than the
28 [budgeted] actual total expenditure per average daily membership
29 of the prior school year, as defined in section 2501(20), minus
30 the [budgeted] actual expenditures at the end of the most recent

fiscal year of the district of residence for nonpublic school programs and services; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; athletic funds and school-sponsored extracurricular activities set up in accordance with section 511; the full employer's share of retirement contributions paid to the Public School Employees' Retirement System; tuition to Pennsylvania charter schools for educational services provided to students attending the charter school; tax collection; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department. This amount shall be paid by the district of residence of each student.

* * *

Section 1732-A. Provisions Applicable to Charter Schools.--

(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, [755,] 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1301, 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Article XIII-A and Article XIV.

Act of July 17, 1961 (P.L.776, No.341), known as the "Pennsylvania Fair Educational Opportunities Act."

Act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities."

1 Section 4 of the act of January 25, 1966 (1965 P.L.1546,
2 No.541), entitled "An act providing scholarships and providing
3 funds to secure Federal funds for qualified students of the
4 Commonwealth of Pennsylvania who need financial assistance to
5 attend postsecondary institutions of higher learning, making an
6 appropriation, and providing for the administration of this
7 act."

8 Act of July 12, 1972 (P.L.765, No.181), entitled "An act
9 relating to drugs and alcohol and their abuse, providing for
10 projects and programs and grants to educational agencies, other
11 public or private agencies, institutions or organizations."

12 Act of December 15, 1986 (P.L.1595, No.175), known as the
13 "Antihazing Law."

14 * * *

15 Section 1743-A. Cyber charter school requirements and
16 prohibitions.

17 (a) Special financial requirements prohibited.--A cyber
18 charter school shall not:

19 (1) provide discounts to a school district or waive
20 payments under section 1725-A for any student unless the
21 discount or waiver of payments is available to all school
22 districts;

23 * * *

24 Section 1748-A. Enrollment [and], notification and attendance.

25 (a) Notice to school district.--

26 (1) Within [15] ten days of the enrollment of a student
27 to a cyber charter school, the parent or guardian and the
28 cyber charter school shall notify the student's school
29 district of residence of the enrollment through the use of
30 the notification form under subsection (b) and provide a copy

1 of documentation allowable under Article XIII verifying the
2 student's residence.

3 (2) If a school district which has received notice under
4 paragraph (1) determines that a student is not a resident of
5 the school district, the following apply:

6 (i) Within [seven] ten days of receipt of the notice
7 under paragraph (1), the school district shall notify the
8 cyber charter school and the department that the student
9 is not a resident of the school district. Notification of
10 nonresidence shall include the basis for the
11 determination.

12 (ii) Within seven days of notification under
13 subparagraph (i), the cyber charter school shall review
14 the notification of nonresidence, respond to the school
15 district and provide a copy of the response to the
16 department. If the cyber charter school agrees that a
17 student is not a resident of the school district, it
18 shall determine the proper district of residence of the
19 student before requesting funds from another school
20 district.

21 (iii) Within seven days of receipt of the response
22 under subparagraph (ii), the school district shall notify
23 the cyber charter school that it agrees with the cyber
24 charter school's determination or does not agree with the
25 cyber charter school's determination.

26 (iv) A school district that has notified the cyber
27 charter school that it does not agree with the cyber
28 charter school's determination under subparagraph (iii)
29 shall appeal to the department for a final determination.

30 (v) All decisions of the department regarding the

1 school district of residence of a student shall be
2 subject to review by the Commonwealth Court.

3 (vi) [A school district] The department shall
4 continue to make payments to a cyber charter school under
5 section 1725-A during the time in which the school
6 district of residence of a student is in dispute.

7 (vii) If a final determination is made that a
8 student is not a resident of an appealing school
9 district, the cyber charter school shall return all funds
10 provided on behalf of that student to the school district
11 within 30 days.

12 (b) Notification form.--The department shall develop a
13 notification form for use under subsection (a). The notification
14 shall include:

15 (1) The name, home address and mailing address of the
16 student.

17 (2) The grade in which the student is being enrolled.

18 (3) The date the student will be enrolled.

19 (4) The name and address of the cyber charter school and
20 the name and telephone number of a contact person able to
21 provide information regarding the cyber charter school.

22 (5) The signature of the parent or guardian and an
23 authorized representative of the cyber charter school.

24 (6) The student's former school information, including
25 the name and address of the school district, the student's
26 record of attendance, the withdrawal date from the former
27 school district, if applicable, and the type of educational
28 services received, for example, non-special education or
29 special education.

30 (7) Verification of the student's residency, including

the parent or guardian's deed, lease, current utility bill,
current credit card bill, property tax bill, vehicle
registration, driver's license or Department of
Transportation identification card.

(b.1) Residency.--A cyber charter school shall submit to the
student's school district of residence verification of the
student's residency upon enrollment under subsection (a)(1) and
every six months thereafter. A school district shall notify the
department of all resident students enrolled in cyber charter
schools for whom enrollment notification and verification of
residency have not been received.

(c) Withdrawal.--The cyber charter school and the parent or
guardian of a student enrolled in a cyber charter school shall
provide written notification to the student's school district of
residence within [15] ten days following the withdrawal of a
student from the cyber charter school.

(d) Change in residency status.--

(1) Within ten days of a change in a student's residency
status, including a move which would affect the student's
district of residence determination, the parent or guardian
shall notify the former school district of residence of the
change in residency through the use of a form developed by
the department. The notification shall include:

(i) The name, home address and mailing address of
the student.

(ii) The date the change of residency became
effective.

(iii) The name and address of the new school
district of residence and the name and telephone number
of a contact person able to provide information regarding

1 the school.

2 (iv) The signature of the parent or legal guardian
3 of the student.

4 (2) A parent or guardian who knowingly refuses or
5 neglects to comply with the requirements of this subsection
6 shall be subject to penalty under section 1302(c).

7 (e) Attendance.--

8 (1) In addition to requirements under Article XIII, upon
9 a student's unlawful absence from a cyber charter school at
10 any point within the school year, the cyber charter school
11 shall immediately inform a student's parents or guardians and
12 the student's school district of residence of each incident
13 of the student's unlawful absence from the cyber charter
14 school. Notice shall be sent as follows:

15 (i) Immediately after a student's first and second
16 unlawful absences, the cyber charter school shall send a
17 printed notice to the parent or guardian and the school
18 district of residence indicating the following:

19 (A) The dates of the student's unlawful absence
20 from the cyber charter school.

21 (B) Information about the legal penalties
22 established by law for violation of compulsory
23 attendance requirements.

24 (C) The name and telephone number of a contact
25 person employed by the cyber charter school who can
26 assist in resolving the student's truant behavior.

27 (ii) Immediately after a student's third unlawful
28 absence from the cyber charter school, the cyber charter
29 school shall send by certified mail an official notice of
30 the student's third illegal absence to the parent or

guardian and the school district of residence.
Information about the legal penalties for violation of
compulsory attendance requirements as they pertain to
both the student and the parent or guardian, including
information that three days after giving the notice, the
student or parent or guardian who again violates the
compulsory requirements shall be liable without further
notice, shall be attached to the notice.

(2) After a student's third unlawful absence from the
cyber charter school, the cyber charter school shall
immediately institute truancy proceedings under section 1333
in the jurisdiction where the truant student resides and
notify the parent or guardian and the school district of
residence by certified mail that a citation is being sent to
the magisterial district judge.

(3) The cyber charter school shall refer all future
incidents of truancy directly to the magisterial district
judge. Notwithstanding any other sentence imposed under
section 1333, the magisterial district judge may order the
parent or guardian to withdraw the student from the cyber
charter school and enroll the student in the district of
residence for a period of at least six months.

(4) A school district that receives a notification of
enrollment in a cyber charter school for a student who is in
violation of compulsory attendance requirements and is truant
from the school district shall inform the cyber charter
school in writing about the student's truant behavior.

(5) If a student who is truant from the student's school
district of residence enrolls in a cyber charter school, the
cyber charter school shall provide to the student's district

1 of residence documentation during the student's first three
2 months of enrollment that the student is fulfilling
3 compulsory attendance requirements and completing assignments
4 as required by the cyber charter school.

5 (f) Penalties.--Failure of a charter or cyber charter school
6 to submit notification under this section shall result in a
7 school district withholding payment to the cyber charter school
8 until 15 days after the district of residence is in receipt of
9 the required notification, if the district of residence
10 determines the student is a resident of the district.

11 Section 8. The act is amended by adding sections to read:
12 Section 1748.1-A. Funding for cyber charter schools.

13 Funding for a cyber charter school shall be provided in the
14 following manner:

15 (1) There shall be no tuition charge for a resident or
16 nonresident student attending a cyber charter school.

17 (2) For non-special education students, the cyber
18 charter school shall receive for each student enrolled no
19 less than the actual total expenditure per average daily
20 membership of the prior school year, as defined in section
21 2501(20), minus the actual expenditures at the end of the
22 most recent fiscal year of the district of residence for
23 nonpublic school programs and services; adult education
24 programs; community/junior college programs; student
25 transportation services; for special education programs;
26 facilities acquisition, construction and improvement
27 services; athletic funds and school-sponsored extracurricular
28 activities set up in accordance with section 511; the full
29 employer's share of retirement contributions paid to the
30 Public School Employees' Retirement System; tuition to

Pennsylvania charter schools for educational services
provided to students attending the charter school; library
services; food services; health services; tax collection;
school district cyber or online programs and technology; and
other financing uses, including debt service and fund
transfers as provided in the Manual of Accounting and Related
Financial Procedures for Pennsylvania School Systems
established by the department. This amount shall be paid by
the district of residence of each student.

(3) (i) For special education students, the cyber
charter school shall receive for each student enrolled
the same funding as for each non-special education
student as provided in paragraph (2), plus an additional
amount determined by dividing the district of residence's
total special education expenditure by the product of
multiplying the combined percentage of section 2509.5(k)
times the district of residence's total average daily
membership for the prior school year. This amount shall
be paid by the district of residence of each special
education student enrolled, but the amount of additional
tuition per student under this subparagraph shall not
exceed the actual cost of special education services
provided by the cyber charter school to the special
education student during the school year. If the amount
of tuition paid by the school district to the cyber
charter school for the school year exceeds the amount of
special education services provided by the cyber charter
school, the excess shall be refunded to the school
district within 60 days of the end of the cyber charter
school year, notwithstanding the annual audit and

1 reconciliation process required in section 1748.2-A. The
2 cyber charter school shall report to the school district
3 of residence within 45 days following the end of the
4 cyber charter school year, the actual cost of special
5 education services for each special education student.
6 This report shall include the actual cost of
7 psychological services, speech pathology and audiology
8 services, social work services, special education legal
9 services, medical services and nursing services provided
10 to each special education student.

11 (ii) If a non-special education student is
12 identified by the cyber charter school in which the
13 student is enrolled as a student with a disability in
14 need of special education services, the school district
15 of residence may administer and deliver the educational
16 services required to address the special education
17 services of the student in lieu of providing the cyber
18 charter school with the amount for such student required
19 in subparagraph (i).

20 (iii) The amount a school district provides to a
21 cyber charter school on a per-student basis for special
22 education students of the district who are enrolled in
23 the cyber charter school shall not exceed the amount the
24 school district receives in Federal and State subsidies
25 for special education each year on a per special
26 education student basis.

27 (4) A cyber charter school may request the intermediate
28 unit in which the school district of residence is located to
29 provide services to assist the cyber charter school to
30 address the specific needs of exceptional students. The

1 intermediate unit shall assist the cyber charter school and
2 bill the charter school for the services. The intermediate
3 unit may not charge the cyber charter school more for any
4 service than it charges the constituent districts of the
5 intermediate unit. If the service is provided by the
6 intermediate unit or school district, the cyber charter
7 school shall provide a copy of the contract and invoice for
8 the services to the student's school district of residence.

9 (5) Payments shall be made to the cyber charter school
10 in 12 equal monthly payments, by the fifth day of each month,
11 within the operating school year, following receipt by the
12 school district of documentation from the cyber charter
13 school that lists the name and PAsecureID for each student
14 enrolled from the school district, the residency status,
15 enrollment date and tuition amount due for each student
16 enrolled in the cyber charter school from the school district
17 for that month. Each month a cyber charter school shall send
18 the department a copy of the documentation provided to the
19 school district. A student enrolled in a cyber charter school
20 shall be included in the average daily membership of the
21 student's district of residence for the purpose of providing
22 basic education funding payments and special education
23 funding pursuant to Article XXV. If, following receipt of the
24 documentation from the cyber charter school, a school
25 district fails to make a payment to the cyber charter school
26 as prescribed in this paragraph, the secretary shall deduct
27 the estimated amount, as documented by the cyber charter
28 school, from any and all State payments made to the district
29 after receipt of documentation from the cyber charter school.

30 (6) Within 30 days after the secretary makes the

1 deduction described in paragraph (5), a school district may
2 notify the secretary that the deduction made from State
3 payments to the district under this subsection is inaccurate.
4 The secretary shall provide the school district with an
5 opportunity to be heard concerning whether the cyber charter
6 school documented that its students were enrolled in the
7 cyber charter school, the period of time during which each
8 student was enrolled, the school district of residence of
9 each student and whether the amounts deducted from the school
10 district were accurate.

11 (7) Except for a student who is enrolled in a cyber
12 charter school on the effective date of this paragraph,
13 payment to a cyber charter school may be no more than one-
14 half of the amount in paragraphs (2) and (3), where
15 applicable, for each resident student who attends a half-day
16 kindergarten program offered by the cyber charter school.

17 (8) The amounts under paragraphs (2) and (3) shall be
18 calculated using the actual expenditure data at the end of
19 the most recently completed fiscal year and submitted on a
20 form prescribed by the department not later than October 31
21 of each year. The amount calculated shall remain in effect
22 until October 31 of the next year.

23 (9) The department shall collect and aggregate the
24 documentation provided monthly by cyber charter schools
25 pursuant to paragraph (5). The department shall review all
26 documentation received to determine duplicative enrollments
27 and shall notify a cyber charter school and all relevant
28 school districts within ten days of receipt of the
29 documentation if the department finds duplicative enrollment.
30 The department shall post on its publicly available Internet

website within 30 days of receipt of the documentation each month a listing of:

(i) The total number of students enrolled in each cyber charter school.

(ii) The number of students enrolled in each cyber charter school from each school district.

(iii) The total monthly payment made to the cyber charter school by each school district.

(iv) The total monthly payment per student made to the cyber charter school by each school district.

(v) The year-to-date total payment made to the cyber charter school by each school district.

(vi) The year-to-date payment per student made to the cyber charter school by each school district.

Section 1748.2-A. Actual costs of educational services for cyber charter schools.

(a) General rule.--Within 180 days of the effective date of this section, the department shall issue audit guidelines and may promulgate audit regulations under this article which shall be used in determining the year-end actual costs of educational services per non-special education student and special education student provided by a cyber charter school to any student who is a resident of a school district and which services are subject to payment in accordance with section 1748.1-A. The audit guidelines shall take effect at the beginning of the first school year after which such audit guidelines have been issued.

(b) Audit guidelines.--In order that the year-end actual costs of educational services per non-special education student and special education student are thoroughly and properly determined for the purpose of final reconciliation pursuant to

1 subsection (d), the audit guidelines issued by the department
2 shall specify the actual costs of the educational services
3 associated with the operation of the educational program offered
4 by a cyber charter school.

5 (c) Excluded costs.--The following may not be considered
6 actual costs of educational services associated with the
7 operation of the educational program offered by a cyber charter
8 school:

9 (1) Any paid media advertisement, including television,
10 radio, movie theater, billboard, bus poster, newspaper,
11 magazine, the Internet or any other commercial method that
12 may promote student enrollment in a cyber charter school.

13 (2) Any lobbying, legislative advocacy consulting or any
14 effort to influence any member of the executive or
15 legislative branch of Federal or State Government regarding
16 the formulation, modification or adoption of legislation or
17 other policy affecting either that cyber charter school in
18 particular or cyber charter schools in general.

19 (3) Any bonuses or additional compensation beyond the
20 annual or termed contractual compensation for members of the
21 board of trustees, faculty, administration and staff,
22 including salary, benefits and any additional compensation
23 not specifically enumerated in the contract.

24 (d) Contents of audit guidelines.--The audit guidelines
25 issued by the department shall:

26 (1) Allow a closely related business entity to charge no
27 more than 107% of the actual educational costs.

28 (2) Require information as necessary for a full-scope
29 review of a finalized management agreement entered into
30 between a cyber charter school and a closely related business

1 entity, including:

2 (i) All payments received from school districts of
3 residence.

4 (ii) Expenditures of the closely related business
5 entity related to the delivery of educational and
6 administrative services pursuant to the management
7 agreement.

8 (3) List and provide copies of all receipts and
9 expenditures for an educational service provider that
10 provides any service to a cyber charter school.

11 (4) Provide reasonable penalties for failure to comply.

12 (e) Reconciliation process.--

13 (1) Within 60 days from the effective date of this
14 section the department shall effectuate an annual year-end
15 final reconciliation process of tuition payments against
16 actual costs of educational services per non-special
17 education student and special education student provided and
18 necessary procedures for the transfer of funds from the cyber
19 charter school to the school district of residence. The final
20 reconciliation process shall include one of the following:

21 (i) Allowing a school district of residence to
22 withhold its last monthly payment from a charter school
23 to account for any overpayments as identified by the
24 year-end audit. If the school district of residence has
25 sent overpayments, the district may adjust its last
26 monthly payment accordingly.

27 (ii) Requiring a cyber charter school at the end of
28 each school year to return any overpayments to a school
29 district of residence owed a refund based on payments
30 made during that school year. A cyber charter school may

1 not return any overpayments on a pro rata basis.

2 (2) The department shall not deduct from a school
3 district of residence's basic education subsidy any amount in
4 excess of the selected expenditure per average daily
5 membership amount calculated in accordance with section
6 1748.1-A.

7 (f) Duty to provide information.--Cyber charter schools,
8 educational service providers, charter school foundations and
9 closely related business entities shall provide to the
10 department, unless already retained by the department, any
11 information necessary to carry out the provisions of this
12 section within ten days from a request by the department.

13 (g) Construction.--Except as provided under subsection (d),
14 nothing contained under this section shall be construed to
15 permit a school district of residence to provide funding for
16 cyber charter schools in a manner other than that which is
17 specified in section 1748.1-A.

18 (h) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection unless the context clearly indicates otherwise:

21 "Closely related business entity." Any organization with a
22 management or operational relationship with a charter school or
23 cyber charter school involving either shared or overlapping
24 aspects of corporate identity such as ownership, board of
25 directors or trustees membership, capital or profits.

26 "Educational service provider." A for-profit education
27 management organization, nonprofit charter management
28 organization, school design provider, business manager or any
29 other partner entity with which a cyber charter school intends
30 to contract or presently contracts to provide educational

services, operational services or management services to the
cyber charter school. The term shall not include a charter
school foundation.

"Educational and administrative services." Any direct
expenditures for any instruction and the administration of the
instructional program. The term shall not include any
expenditures not pertaining directly to the instruction and the
administration of the instructional program.

"Management agreement." Any contract establishing a
management or operational relationship between a cyber charter
school and closely related business entity for the provision of
professional or nonprofessional services to the cyber charter
school.

Section 9. Section 1749-A(a)(1) of the act, added June 29,
2002 (P.L.524, No.88), is amended to read:

Section 1749-A. Applicability of other provisions of this act
and of other acts and regulations.

(a) General requirements.--Cyber charter schools shall be
subject to the following:

(1) Sections 108, 110, 111, 321, 325, 326, 327, 431,
436, 443, 510, 518, 527, 609, 687(a), (b), (c), (d), (h) and
(i), 708, 752, 753, [755,] 771, 776, 777, 807.1, 808, 809,
810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301, 1302, 1310,
1317.2, 1318, 1330, 1332, 1333, 1354, 1355, 1303-A, 1518,
1521, 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-
A, 1716.1-A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-
A, 1725-A, 1727-A, 1729-A, 1730-A, 1731-A(a)(1) and (b) and
2014-A and Articles XII-A, XIII-A [and], XIV and XXIV.

* * *

Section 10. This act shall take effect in 60 days.