

## AMENDMENTS TO HOUSE BILL NO. 1422

Sponsor: REPRESENTATIVE TOPPER

Printer's No. 1704

1 Amend Bill, page 1, lines 1 through 25, by striking out all  
2 of said lines and inserting

3 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
4 act relating to the public school system, including certain  
5 provisions applicable as well to private and parochial  
6 schools; amending, revising, consolidating and changing the  
7 laws relating thereto," in preliminary provisions, providing  
8 for advertising; in pupils and attendance, providing for  
9 transfer of attendance records to another school entity or  
10 nonpublic school; and, in charter schools, further providing  
11 for definitions, for charter school requirements, for powers  
12 of board of trustees, for establishment of charter school,  
13 for contents of application and for term and form of charter,  
14 providing for amendments, further providing for facilities,  
15 for enrollment and for tort liability, providing for fund  
16 balance limits and further providing for cyber charter school  
17 requirements and prohibitions, for school district and  
18 intermediate unit responsibilities and for establishment of  
19 cyber charter school.

20 Amend Bill, pages 2 through 61, lines 1 through 30; page 62,  
21 lines 1 through 25; by striking out all of said lines on said  
22 pages and inserting

23 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
24 as the Public School Code of 1949, is amended by adding sections  
25 to read:

26 Section 130. Advertising.--(a) A paid media advertisement  
27 by a public school entity that refers to the cost of tuition or  
28 transportation shall not advertise those expenses as free, and  
29 any reference to tuition or transportation costs must stipulate  
30 that the cost is covered by taxpayer dollars. A paid media  
31 advertisement shall include a television, radio or movie theater  
32 advertisement, billboard, bus poster, newspaper, magazine,  
33 publicly accessible Internet website or any other commercial  
34 method that may promote enrollment in a public school entity.

35 (b) For the purposes of this section, the term "public

1 school entity" shall mean a public school district, charter  
2 school, cyber charter school, regional charter school,  
3 intermediate unit or area career and technical school.

4 Section 1313.2. Transfer of Attendance Records to Another  
5 School Entity or Nonpublic School.--(a) (1) Whenever a student  
6 transfers to another school entity or nonpublic school within  
7 this Commonwealth, a copy of the student's attendance record  
8 shall be transmitted to the school entity or nonpublic school to  
9 which the student has transferred.

10 (2) The school entity or nonpublic school to which the  
11 student has transferred shall request the attendance record.

12 (3) The sending school entity or nonpublic school shall have  
13 ten (10) days from the receipt of the request to provide a copy  
14 of the student's attendance record.

15 (b) In the case of a student transferring during the course  
16 of a school term, the student's unexcused absences shall be  
17 included in the student's attendance record at the school entity  
18 or nonpublic school to which the student has transferred for  
19 that school term.

20 (c) For purposes of this section, the term "school entity"  
21 means a public school district, charter school, cyber charter  
22 school, regional charter school, intermediate unit or area  
23 career and technical school.

24 Section 2. Sections 1703-A and 1715-A of the act are amended  
25 to read:

26 Section 1703-A. Definitions.--As used in this article,  
27 "Administrator" shall include an employe of a charter school  
28 entity, including the chief administrator of a charter school  
29 entity and any other employe, who by virtue of the employe's  
30 position is responsible for taking official action of a  
31 nonministerial nature with regard to contracting or procurement,  
32 administering or monitoring grants or subsidies, managing or  
33 regulating staff, student and school activities or any activity  
34 where the official action has an economic impact of greater than  
35 a de minimis nature on the interests of any person.

36 "Aid ratio" and "market value/income aid ratio" shall be:

37 (1) the aid ratio and market value/income aid ratio for the  
38 school district that granted a charter to the charter school;

39 (2) for a regional charter school, the aid ratio and market  
40 value/income aid ratio shall be a composite, as determined by  
41 the department, based on the school districts that granted the  
42 charter; or

43 (3) for a cyber charter school, the aid ratio and market  
44 value/income aid ratio shall be that of the school district in  
45 which the administrative offices of the cyber charter school are  
46 located.

47 "Appeal board" shall mean the State Charter School Appeal  
48 Board established by this article.

49 "Assessment" shall mean the Pennsylvania System of School  
50 Assessment test, the Keystone Exam or another test established  
51 or approved by the State board or the General Assembly to meet

1 the requirements of section 2603-B or 2604-B or 22 Pa. Code §  
2 4.51 (relating to State assessment system) or required under the  
3 Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802)  
4 or its successor Federal statute.

5 "At-risk student" shall mean a student at risk of educational  
6 failure because of limited English proficiency, poverty,  
7 community factors, truancy, academic difficulties or economic  
8 disadvantage.

9 "Charter school" shall mean an independent public school  
10 established and operated under a charter from the local board of  
11 school directors and in which students are enrolled or attend. A  
12 charter school must be organized as a public, nonprofit  
13 corporation. Charters may not be granted to any for-profit  
14 entity.

15 ["Chief executive officer" shall mean an individual appointed  
16 by the board of trustees to oversee and manage the operation of  
17 the charter school, but who shall not be deemed a professional  
18 staff member under this article.]

19 "Charter school entity" shall mean a charter school, regional  
20 charter school or cyber charter school.

21 "Charter school foundation" shall mean a nonprofit  
22 organization under section 501(c)(3) of the Internal Revenue  
23 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that  
24 provides funding, resources or otherwise serves to support a  
25 charter school entity, either directly or through an affiliated  
26 entity.

27 "Chief administrator" shall mean an individual appointed by a  
28 board of trustees to oversee and manage the operation of a  
29 charter school entity. The term shall not include a professional  
30 staff member under this article.

31 "Community college" shall mean a community college  
32 established under Article XIX-A.

33 "Cyber charter school" shall mean an independent public  
34 school established and operated under a charter from the  
35 Department of Education and in which the school uses technology,  
36 including electronic or digital books, in order to provide a  
37 significant portion of its curriculum and to deliver a  
38 significant portion of instruction to its students through the  
39 Internet or other electronic means. A cyber charter school must  
40 be organized as a public, nonprofit corporation. A charter may  
41 not be granted to a for-profit entity.

42 "Department" shall mean the Department of Education of the  
43 Commonwealth.

44 "Educational management service provider" shall mean a  
45 nonprofit charter management organization, for-profit education  
46 management organization, school design provider, business  
47 manager or any other partner entity with which a board of  
48 trustees of a charter school entity contracts to provide  
49 educational design, business services, comprehensive management  
50 or personnel functions or to implement the charter. The term  
51 shall not include a charter school foundation.

1 "Family member" shall mean a parent, stepparent, child,  
2 stepchild, spouse, domestic partner, brother, sister,  
3 stepbrother, stepsister, grandparent, grandchild, parent-in-law,  
4 brother-in-law, sister-in-law, aunt, uncle or first cousin.

5 "Local board of school directors" shall mean the board of  
6 directors or other governing authority of a school district in  
7 which a proposed or an approved charter school is located.

8 "Nonrelated" shall mean an individual who is not a family  
9 member.

10 "Regional charter school" shall mean an independent public  
11 school established and operated under a charter from more than  
12 one local board of school directors and in which students are  
13 enrolled or attend. A regional charter school must be organized  
14 as a public, nonprofit corporation. Charters may not be granted  
15 to any for-profit entity.

16 "School district of residence" shall mean the school district  
17 in this Commonwealth in which [the parents or guardians of a  
18 child reside.] a child resides as determined under section 1302  
19 and 22 Pa. Code § 11.11(a)(1) (relating to entitlement of  
20 resident children to attend public schools).

21 "School entity" shall mean a school district, intermediate  
22 unit, joint school or area career and technical school.

23 "Secretary" shall mean the Secretary of Education of the  
24 Commonwealth.

25 "State board" shall mean the State Board of Education of the  
26 Commonwealth.

27 "State System institution" shall mean a member institution of  
28 the State System of Higher Education established under Article  
29 XX-A.

30 Section 1715-A. Charter School Entity Requirements.--(a)  
31 Charter [schools] school entities shall be required to comply  
32 with the following provisions:

33 (1) Except as otherwise provided in this article, a charter  
34 school entity is exempt from statutory requirements established  
35 in this act, from regulations of the State board and the  
36 standards of the secretary not specifically applicable to  
37 charter [schools] school entities. Charter [schools] school  
38 entities are not exempt from statutes applicable to public  
39 schools other than this act.

40 (2) A charter school entity shall be accountable to the  
41 parents, the public and the Commonwealth, with the delineation  
42 of that accountability reflected in the charter. Strategies for  
43 meaningful parent and community involvement shall be developed  
44 and implemented by each school.

45 (3) A charter school entity shall not unlawfully  
46 discriminate in admissions, hiring or operation.

47 (4) A charter school entity shall be nonsectarian in all  
48 operations.

49 (5) [A] (i) Subject to subparagraph (ii), a charter school  
50 entity shall not provide any religious instruction, nor shall it  
51 display religious objects and symbols on the premises of the

1 charter school entity.

2 (ii) It shall not be a violation of this paragraph for a  
3 charter school entity to utilize a sectarian facility:

4 (A) if the charter school entity provides for discrete and  
5 separate entrances to buildings utilized for school purposes  
6 only;

7 (B) if the religious objects and symbols within the portions  
8 of the facility utilized by the school are covered or removed to  
9 the extent reasonably feasible; or

10 (C) in which the unused portion of the facility or its  
11 common areas contain religious symbols and objects.

12 (6) A charter school entity shall not advocate unlawful  
13 behavior.

14 (7) A charter school entity shall only be subject to the  
15 laws and regulations as provided for in section 1732-A, or as  
16 otherwise provided for in this [article] act.

17 (8) A charter school entity shall participate in the  
18 Pennsylvania State Assessment System as provided for in 22 Pa.  
19 Code Ch. 5 (relating to curriculum), or subsequent regulations  
20 promulgated to replace 22 Pa. Code Ch. 5, in the manner in which  
21 the school district in which the charter school entity is  
22 located is scheduled to participate.

23 (9) A charter school entity shall provide a minimum of one  
24 hundred eighty (180) days of instruction or nine hundred (900)  
25 hours per year of instruction at the elementary level, or nine  
26 hundred ninety (990) hours per year of instruction at the  
27 secondary level. Nothing in this clause shall preclude the use  
28 of computer and satellite linkages for delivering instruction to  
29 students.

30 (9.1) (i) A cyber charter school shall electronically  
31 distribute on a semi-annual basis to administrators, trustees,  
32 employees, staff and parents and guardians of students of the  
33 cyber charter school, a single-page document provided by the  
34 Office of State Inspector General that describes the following:

35 (A) The powers of the Office of State Inspector General to  
36 investigate claims of fraud, waste, misconduct and abuse.

37 (B) How to contact or file a complaint with the Office of  
38 State Inspector General.

39 (C) The statutory protections that no person may take or  
40 threaten to take action against an employee as a reprisal for  
41 making a complaint or disclosing information to the Office of  
42 State Inspector General, except if the complaint was made or the  
43 information was disclosed with the knowledge that the complaint  
44 or information was false or with willful disregard for the truth  
45 or falsity of the complaint or information.

46 (ii) For purposes of this paragraph, a cyber charter school  
47 shall be considered an executive agency for the purpose of  
48 Article V-A of the act of April 9, 1929 (P.L.177, No.175), known  
49 as "The Administrative Code of 1929."

50 (10) Boards of trustees and contractors of charter [schools]  
51 school entities shall be subject to the following statutory

1 requirements governing construction projects and construction-  
2 related work:

3 (i) The following provisions of this act:

4 (A) Sections 751 and 751.1.

5 (B) Sections 756 and 757 insofar as they are consistent with  
6 the act of December 20, 1967 (P.L.869, No.385), known as the  
7 "Public Works Contractors' Bond Law of 1967."

8 (ii) Section 1 of the act of May 1, 1913 (P.L.155, No.104),  
9 entitled "An act regulating the letting of certain contracts for  
10 the erection, construction, and alteration of public buildings."

11 (iii) The act of August 11, 1961 (P.L.987, No.442), known as  
12 the "Pennsylvania Prevailing Wage Act."

13 (iv) The "Public Works Contractors' Bond Law of 1967."

14 (v) The act of March 3, 1978 (P.L.6, No.3), known as the  
15 "Steel Products Procurement Act."

16 (11) Trustees of a charter school entity shall be public  
17 officials[.

18 (12) A person who serves as an administrator for a charter  
19 school shall not receive compensation from another charter  
20 school or from a company that provides management or other  
21 services to another charter school. The term "administrator"  
22 shall include the chief executive officer of a charter school  
23 and all other employees of a charter school who by virtue of  
24 their positions exercise management or operational oversight  
25 responsibilities. A person who serves as an administrator for a  
26 charter school shall be a public official under 65 Pa.C.S. Ch.  
27 11 (relating to ethics standards and financial disclosure). A  
28 violation of this clause shall constitute a violation of 65  
29 Pa.C.S. § 1103(a) (relating to restricted activities), and the  
30 violator shall be subject to the penalties imposed under the  
31 jurisdiction of the State Ethics Commission.] for the purposes  
32 of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial  
33 disclosure) and shall file a statement of financial interests  
34 for the preceding calendar year with the State Ethics Commission  
35 and either the local board of school directors in the case of a  
36 charter school or regional charter school, or the department in  
37 the case of a cyber charter school, not later than May 1 of each  
38 year that members hold the position and of the year after a  
39 member leaves the position. All members of the board of trustees  
40 of a charter school entity shall take the oath of office as  
41 required under section 321 before entering upon the duties of  
42 their office.

43 (b) An individual who serves as an administrator for a  
44 charter school entity shall be a public employe for the purposes  
45 of 65 Pa.C.S. Ch. 11 and shall file a statement of financial  
46 interests for the preceding calendar year with the board of  
47 trustees not later than May 1 of each year that the person holds  
48 the position and of the year after the person leaves the  
49 position.

50 (c) (1) No individual who serves as an administrator for a  
51 charter school entity may receive compensation from another

1 charter school entity or from an educational management service  
2 provider, unless:

3 (i) The administrator has submitted a sworn statement to the  
4 board of trustees of the charter school entity and the sworn  
5 statement details the work for the other entity and includes the  
6 projected number of hours, rate of compensation and projected  
7 duration.

8 (ii) The board of trustees of the charter school entity has  
9 reviewed the sworn statement under subclause (i) and agreed, by  
10 resolution, to grant permission to the administrator.

11 (2) A copy of the sworn statement under clause (1)(i) and  
12 the resolution by the board of trustees granting the permission  
13 under clause (1)(ii) shall be provided to, and kept on file  
14 with, the charter school entity and the local board of school  
15 directors or, in the case of a cyber charter school, the  
16 department.

17 (3) No administrator of a charter school entity or family  
18 member of the administrator may serve as a voting member of the  
19 board of trustees of the charter school entity that employs the  
20 administrator.

21 (4) (i) No administrator of a charter school entity may  
22 participate in the selection, award or administration of a  
23 contract if the person has a conflict of interest as that term  
24 is defined in 65 Pa.C.S. § 1102 (relating to definitions).

25 (ii) An administrator who knowingly violates this clause  
26 commits a violation of 65 Pa.C.S. § 1103(a) (relating to  
27 restricted activities) and shall be subject to the penalties  
28 imposed under the jurisdiction of the State Ethics Commission.

29 (iii) Any contract made in violation of this clause shall be  
30 voidable by the board of trustees of the charter school entity.

31 (5) An administrator shall be immediately dismissed upon  
32 conviction for an offense graded as a felony, an infamous crime,  
33 an offense pertaining to fraud, theft or mismanagement of public  
34 funds or any crime involving moral turpitude.

35 (d) As used in this section, "charter school entity" shall  
36 mean a charter school, regional charter school or cyber charter  
37 school.

38 Section 3. Section 1716-A(c) of the act is amended and the  
39 section is amended by adding subsections to read:

40 Section 1716-A. Powers of Board of Trustees.--\* \* \*

41 (b.1) (1) For a charter school or regional charter school  
42 chartered after the effective date of this subsection, an  
43 individual shall be prohibited from serving as a voting member  
44 of the board of trustees of the charter school or regional  
45 charter school if the individual or a family member receives  
46 compensation from or is employed by or is a member of the local  
47 board of school directors who participated in the initial  
48 review, approval, oversight, evaluation or renewal process of  
49 the charter school or regional charter school chartered by that  
50 board.

51 (2) An employe of the school district that chartered a

1 charter school or regional charter school may serve as a member  
2 of the board of trustees of the charter school or regional  
3 charter school without voting privileges.

4 (b.2) (1) No member of the board of trustees of a charter  
5 school entity may participate in the selection, award or  
6 administration of any contract if the member has a conflict of  
7 interest as that term is defined in 65 Pa.C.S. § 1102 (relating  
8 to definitions).

9 (2) Any member of the board of trustees of a charter school  
10 entity who in the discharge of the person's official duties  
11 would be required to vote on a matter that would result in a  
12 conflict of interest shall abstain from voting and follow the  
13 procedures required under 65 Pa.C.S. § 1103(j) (relating to  
14 restricted activities).

15 (3) A member of the board of trustees of a charter school  
16 entity who knowingly violates this subsection commits a  
17 violation of 65 Pa.C.S. § 1103(a) and shall be subject to the  
18 penalties imposed under the jurisdiction of the State Ethics  
19 Commission.

20 (4) A contract made in violation of this subsection shall be  
21 voidable by a court of competent jurisdiction if the suit is  
22 commenced within ninety (90) days of the discovery of the  
23 violation.

24 (5) No member of the board of trustees of a charter school  
25 entity shall be compensated for duties on the board of trustees.

26 (b.3) A member of the board of trustees of a charter school  
27 entity shall be automatically disqualified and immediately  
28 removed from the board of trustees upon conviction for an  
29 offense graded as a felony, an infamous crime, an offense  
30 pertaining to fraud, theft or mismanagement of public funds, any  
31 offense pertaining to the member's official capacity as a member  
32 of the board of trustees or any crime involving moral turpitude.

33 (c) The board of trustees shall comply with [the act of July  
34 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."] 65  
35 Pa.C.S. Ch. 7 (relating to open meetings).

36 (d) (1) (i) The board of trustees of a charter school  
37 entity shall consist of a minimum of five (5) nonrelated voting  
38 members.

39 (ii) If a charter school entity has fewer than five (5)  
40 nonrelated voting members serving on its board of trustees on  
41 the effective date of this subsection, the charter school entity  
42 shall, within sixty (60) days, appoint additional members to the  
43 board of trustees to meet the minimum requirements of this  
44 section.

45 (2) Within one (1) year of the effective date of this  
46 subsection, at least one member of the board of trustees of a  
47 charter school entity shall be a parent of a child currently  
48 attending the charter school entity. The board of trustees  
49 member provided for under this paragraph shall be eligible to  
50 serve only so long as the child attends the charter school  
51 entity. This paragraph shall not apply to a charter school that



1 primarily serves adjudicated youth.

2 (e) (1) A majority of the voting members of the board of  
3 trustees shall constitute a quorum. If less than a majority is  
4 present at any meeting, no business may be transacted at the  
5 meeting.

6 (2) The affirmative vote of a majority of all the voting  
7 members of the board of trustees, duly recorded, shall be  
8 required in order to take official action on the subjects  
9 enumerated under subsection (a).

10 (f) A charter school entity shall form an independent audit  
11 committee of its board of trustees members which shall review at  
12 the close of each fiscal year a complete certified audit of the  
13 operations of the charter school entity. The audit shall be  
14 conducted by a qualified independent certified public  
15 accountant. The audit shall be conducted under generally  
16 accepted audit standards of the Governmental Accounting  
17 Standards Board and shall include the following:

18 (1) An enrollment test to verify the accuracy of student  
19 enrollment and reporting to the Commonwealth.

20 (2) Full review of expense reimbursements for board of  
21 trustees members and administrators, including sampling of all  
22 reimbursements.

23 (3) Review of internal controls, including review of  
24 receipts and disbursements.

25 (4) Review of annual Federal and State tax filings,  
26 including the Internal Revenue Service Form 990, Return of  
27 Organization Exempt from Income Tax and all related schedules  
28 and appendices for the charter school entity and charter school  
29 foundation, if applicable.

30 (5) Review of the financial statements of any charter school  
31 foundation.

32 (6) Review of the selection and acceptance process of all  
33 contracts publicly bid pursuant to section 751.

34 (7) Review of all board policies and procedures with regard  
35 to internal controls, code of ethics, conflicts of interest,  
36 whistle-blower protections, complaints from parents or the  
37 public, compliance with 65 Pa.C.S. Ch. 7 (relating to open  
38 meetings), finances, budgeting, audits, public bidding and  
39 bonding.

40 (g) The certified audit under subsection (f) and the annual  
41 budget under subsection (i) are public documents and shall be  
42 made available on the charter school entity's publicly  
43 accessible Internet website, if available, and, in the case of a  
44 charter school or regional charter school, on the school  
45 district's publicly accessible Internet website.

46 (h) A charter school entity may be subject to an annual  
47 audit by the Auditor General, in addition to any other audits  
48 required by Federal law or this act.

49 (i) A charter school entity shall annually provide the  
50 department and, in the case of a charter school or regional  
51 charter school, shall annually provide the school district with

1 a copy of the annual budget for the operation of the charter  
2 school entity that identifies the following:  
3 (1) The source of funding for all expenditures.  
4 (2) Where funding is provided by a charter school  
5 foundation, the amount of funds and a description of the use of  
6 the funds.  
7 (3) The salaries of all administrators of the charter school  
8 entity.  
9 (4) All expenditures to an educational management service  
10 provider.  
11 (j) (1) Notwithstanding any other provision of law, a  
12 charter school entity and any affiliated charter school  
13 foundation shall make copies of its annual Federal and State tax  
14 filings available upon request and on the charter school  
15 entity's or foundation's publicly accessible Internet website,  
16 if available, including Internal Revenue Service Form 990,  
17 Return of Organization Exempt from Income Tax and all related  
18 schedules and appendices.  
19 (2) The charter school foundation shall also make copies of  
20 its annual budget available upon request and on the foundation's  
21 or the charter school entity's publicly accessible Internet  
22 website within thirty (30) days of the close of the foundation's  
23 fiscal year.  
24 (3) The annual budget shall include the salaries of all  
25 employees of the charter school foundation.  
26 Section 4. Sections 1717-A(c), (d), (e) and (f), 1719-A and  
27 1720-A of the act are amended to read:  
28 Section 1717-A. Establishment of Charter School.--\* \* \*  
29 (c) An application to establish a charter school shall be  
30 submitted to the local board of school directors of the district  
31 where the charter school will be located by [November 15]  
32 October 1 of the school year preceding the school year in which  
33 the charter school will be established except that for a charter  
34 school beginning in the 1997-1998 school year, an application  
35 must be received by July 15, 1997. In the 1997-1998 school year  
36 only, applications shall be limited to recipients of fiscal year  
37 1996-1997 Department of Education charter school planning  
38 grants.  
39 (d) Within forty-five (45) days of receipt of an  
40 application, the local board of school directors in which the  
41 proposed charter school is to be located shall hold at least one  
42 public hearing on the provisions of the charter application,  
43 under [the act of July 3, 1986 (P.L.388, No.84), known as the  
44 "Sunshine Act."] 65 Pa.C.S. Ch. 7 (relating to open meetings).  
45 At least forty-five (45) days must transpire between the first  
46 public hearing and the final decision of the board on the  
47 charter application except that for a charter school beginning  
48 in the 1997-1998 school year, only thirty (30) days must  
49 transpire between the first public hearing and the final  
50 decision of the board.  
51 (e) (1) Not later than seventy-five (75) days after the

1 first public hearing on the application, the local board of  
2 school directors shall grant or deny the application. For a  
3 charter school beginning in the 1997-1998 school year, the local  
4 board of school directors shall grant or deny the application no  
5 later than sixty (60) days after the first public hearing.

6 (2) A charter school application submitted under this  
7 article shall be evaluated by the local board of school  
8 directors based on criteria, including, but not limited to, the  
9 following:

10 (i) The demonstrated, sustainable support for the charter  
11 school plan by teachers, parents, other community members and  
12 students, including comments received at the public hearing held  
13 under subsection (d).

14 (ii) The capability of the charter school applicant, in  
15 terms of support and planning, to provide comprehensive learning  
16 experiences to students pursuant to the adopted charter.

17 (iii) The extent to which the application considers the  
18 information requested in section 1719-A and conforms to the  
19 legislative intent outlined in section 1702-A.

20 (iv) The extent to which the charter school may serve as a  
21 model for other public schools and share best practices.

22 (3) The local board of school directors, in the case of an  
23 existing school being converted to a charter school, shall  
24 establish the alternative arrangements for current students who  
25 choose not to attend the charter school.

26 (4) A charter application shall be deemed approved by the  
27 local board of school directors [~~of a school district~~] upon  
28 affirmative vote by a majority of all the directors. Formal  
29 action approving or denying the application shall be taken by  
30 the local board of school directors at a public meeting, with  
31 notice or consideration of the application given by the board,  
32 under [~~the "Sunshine Act."~~] 65 Pa.C.S. Ch. 7.

33 (5) Written notice of the board's action shall be sent to  
34 the applicant, the department and the appeal board. If the  
35 application is denied, the reasons for the denial, including a  
36 description of deficiencies in the application, shall be clearly  
37 stated in the notice sent by the local board of school directors  
38 to the charter school applicant.

39 (f) At the option of the charter school applicant, a denied  
40 application may be revised and resubmitted to the local board of  
41 school directors. Following the appointment and confirmation of  
42 the Charter School Appeal Board under section 1721-A, the  
43 decision of the local board of school directors may be appealed  
44 to the appeal board. When an application is revised and  
45 resubmitted to the local board of school directors, the board  
46 may schedule additional public hearings on the revised  
47 application. The board shall consider the revised and  
48 resubmitted application at the first board meeting occurring at  
49 least forty-five (45) days after receipt of the revised  
50 application by the board. For a revised application resubmitted  
51 for the 1997-1998 school year, the board shall consider the

1 application at the first board meeting occurring at least thirty  
2 (30) days after its receipt. The board shall provide notice of  
3 consideration of the revised application under [the "Sunshine  
4 Act."] 65 Pa.C.S. Ch. 7. No appeal from a decision of a local  
5 school board may be taken until July 1, 1999.

6 \* \* \*

7 Section 1719-A. Contents of Application.--[An] (a) The  
8 department shall create a standard application form for charter  
9 school applicants seeking to establish a charter school entity  
10 and a standard application form for existing charter school  
11 entities seeking renewal of their charters. The department shall  
12 transmit notice of the forms to the Legislative Reference Bureau  
13 for publication in the next available issue of the Pennsylvania  
14 Bulletin, and the forms shall be posted on the department's  
15 publicly accessible Internet website. The forms shall include  
16 all of the following information:

17 (1) The identification of the charter school applicant.

18 (2) The name of the proposed charter school entity.

19 (3) The grade or age levels served by the school.

20 (4) [The proposed governance structure of the charter  
21 school, including a description and method for the appointment  
22 or election of members of the board of trustees.] An

23 organization chart clearly presenting the proposed governance  
24 structure of the school, including lines of authority and  
25 reporting between the board of trustees, administrators, staff  
26 and any educational management service provider that will  
27 provide management services to the charter school entity.

28 (4.1) A clear description of the roles and responsibilities  
29 of the board of trustees, administrators and any other entities,  
30 including a charter school foundation, shown in the organization  
31 chart.

32 (4.2) A clear description of the method for the appointment  
33 or election of members of the board of trustees.

34 (4.3) Standards for board of trustees' performance,  
35 including compliance with all applicable laws, regulations and  
36 terms of the charter.

37 (4.4) If the charter school entity intends to contract with  
38 an educational management service provider for services, all of  
39 the following shall apply:

40 (i) Evidence of the educational management service  
41 provider's record in serving student populations, including  
42 demonstrated academic achievement and demonstrated management of  
43 nonacademic school functions, including proficiency with public-  
44 school-based accounting, if applicable.

45 (ii) A draft contract, if the educational management service  
46 provider has been engaged by the charter school entity, stating  
47 all of the following:

48 (A) The officers, chief administrator and administrators of  
49 the educational management service provider.

50 (B) The proposed duration of the service contract.

51 (C) Roles and responsibilities of the board of trustees, the

1 school staff and the educational management service provider.

2 (D) The scope of services, personnel and resources to be  
3 provided by the educational management service provider.

4 (E) Performance evaluation measures and timelines.

5 (F) The compensation structure, including clear  
6 identification of all fees to be paid to the educational  
7 management service provider.

8 (G) Methods of contract oversight and enforcement.

9 (H) Investment disclosure or the advance of moneys by the  
10 educational management service provider on behalf of the charter  
11 school entity.

12 (I) Conditions for renewal and termination of the contract.

13 (iii) Disclosure and explanation of any existing or  
14 potential conflicts of interest between the members of the board  
15 of trustees and the proposed educational management service  
16 provider or any affiliated business entities, including a  
17 charter school foundation qualified as a support organization  
18 under the Internal Revenue Code of 1986 (Public Law 99-514, 26  
19 U.S.C. § 1 et seq.).

20 (5) The mission and education goals of the charter school  
21 entity, the curriculum to be offered and the methods of  
22 assessing whether students are meeting educational goals.

23 (6) The admission and enrollment policy [and criteria for  
24 evaluating the admission of students] which shall comply with  
25 the requirements of section 1723-A.

26 (7) Procedures which will be used regarding the suspension  
27 or expulsion of pupils. Said procedures shall comply with  
28 section 1318.

29 (8) Information on the manner in which community groups will  
30 be involved in the charter school entity planning process.

31 (9) The financial plan for the charter school entity and the  
32 provisions which will be made for auditing the school under  
33 [section 437] sections 437 and 1728-A, including the role of any  
34 charter school foundation.

35 (10) Procedures which shall be established to review  
36 complaints of parents regarding the operation of the charter  
37 school entity.

38 (11) A description of and address of the physical facility  
39 in which the charter school entity will be located and the  
40 ownership thereof and any lease arrangements.

41 (12) Information on the proposed school calendar for the  
42 charter school entity, including the length of the school day  
43 and school year consistent with the provisions of section 1502.

44 (13) The proposed faculty, if already determined, and a  
45 professional development and continuing education plan for the  
46 faculty and professional staff of [a] the charter school entity.

47 (14) Whether any agreements have been entered into or plans  
48 developed with the local school district regarding participation  
49 of the charter school entity students in extracurricular  
50 activities within the school district. Notwithstanding any  
51 provision to the contrary, no school district of residence shall

1 prohibit a student of a charter school entity from participating  
2 in any extracurricular activity of that school district of  
3 residence: Provided, That the student is able to fulfill all of  
4 the requirements of participation in such activity and the  
5 charter school entity does not provide the same extracurricular  
6 activity.

7 (15) [A report] Reports of criminal history [record] records  
8 and employment history reviews, pursuant to [section 111]  
9 sections 111 and 111.1, for all individuals identified in the  
10 application who shall have direct contact with students[.] and a  
11 plan for satisfying the proper criminal history record  
12 clearances and employment history reviews required for all other  
13 staff.

14 (16) An official clearance statement regarding child injury  
15 or abuse from the Department of [Public Welfare] Human Services  
16 as required by 23 Pa.C.S. Ch. 63 Subch. [C.2 (relating to  
17 background checks for employment in schools)] C (relating to  
18 powers and duties of department) and section 111 for all  
19 individuals identified in the application who shall have direct  
20 contact with students[.] and a plan for satisfying the proper  
21 official clearance statement regarding child injury or abuse  
22 required for all other staff.

23 (17) How the charter school entity will provide adequate  
24 liability and other appropriate insurance for the charter school  
25 entity, its employees and the board of trustees of the charter  
26 school entity.

27 (18) Policies regarding truancy, absences and withdrawal of  
28 students, including the manner in which the charter school  
29 entity will monitor attendance consistent with section 1715-A(9)  
30 and the truancy provisions under Article XIII.

31 (19) Indicate whether the charter school entity will seek  
32 accreditation by a nationally recognized accreditation agency,  
33 including the Middle States Association of Colleges and Schools  
34 or another regional institutional accrediting agency recognized  
35 by the United States Department of Education or an equivalent  
36 federally recognized body for charter school education.

37 (b) A local board of school directors may not impose  
38 additional terms, develop its own application or require  
39 additional information outside the standard application forms  
40 required under subsection (a).

41 (c) The department shall review the standard application  
42 forms every three (3) years and shall submit any recommended  
43 revisions in writing to the State board. No such recommended  
44 revisions shall be made to the standard application forms unless  
45 the revisions are approved by the State board. Revisions under  
46 this subsection shall be as follows:

47 (1) The State board shall transmit notice of the  
48 department's proposed revisions to the standard application  
49 forms to the Legislative Reference Bureau for publication in the  
50 next available issue of the Pennsylvania Bulletin. The State  
51 board shall give at least thirty (30) days for the submission of

1 public comment and shall hold at least one public hearing on the  
2 proposed revisions.

3 (2) After the close of the public comment period and the  
4 public hearing, the State board shall submit all public comments  
5 and the transcript of the public hearing to the Education  
6 Committee of the Senate and the Education Committee of the House  
7 of Representatives.

8 (3) Prior to the State board approving any revisions, timely  
9 and meaningful consultation with the chair and minority chair of  
10 the Education Committee of the Senate and the chair and minority  
11 chair of the Education Committee of the House of  
12 Representatives, with the opportunity for input, must be given.  
13 The department shall present the proposed revisions at a joint  
14 hearing of the Education Committee of the Senate and the  
15 Education Committee of the House of Representatives, if  
16 requested, within 60 days of submission of public comments and  
17 the transcript of the public hearing under paragraph (2).

18 Section 1720-A. Term and Form of Charter.--(a) Upon  
19 approval of a charter application under section 1717-A, a  
20 written charter shall be developed which shall contain the  
21 provisions of the standard charter application under section  
22 1719-A and which shall be signed by the local board of school  
23 directors [of a school district], by the local boards of school  
24 directors [of a school district] in the case of a regional  
25 charter school or by the chairman of the appeal board pursuant  
26 to section [1717-A(i)(5)] 1717-A(i)(9) and the board of trustees  
27 of the charter school or regional charter school. This written  
28 charter, when duly signed by the local board of school directors  
29 [of a school district, or], by the local boards of school  
30 directors [of a school district] in the case of a regional  
31 charter school or by the chairman of the appeal board, and the  
32 charter school or regional charter school's board of trustees,  
33 shall act as legal authorization for the establishment of a  
34 charter school or regional charter school. This written charter  
35 shall be legally binding on both the local board of school  
36 directors [of a school district] and the charter school or  
37 regional charter school's board of trustees. [Except as  
38 otherwise provided in subsection (b), the charter shall be for a  
39 period of no less than three (3) nor more than five (5) years  
40 and may be renewed for five (5) year periods upon  
41 reauthorization by the local board of school directors of a  
42 school district or the appeal board.] If the charter school or  
43 regional charter school contracts with an educational management  
44 service provider, a contract shall be executed when the charter  
45 is approved. A charter will be granted only for a school  
46 organized as a public, nonprofit corporation.

47 (b) (1) Notwithstanding subsection [(a)] (c), a governing  
48 board of a school district of the first class may renew a  
49 charter for a period of one (1) year if the board of school  
50 directors determines that there is insufficient data concerning  
51 the charter school's academic performance to adequately assess

1 that performance and determines that an additional year of  
2 performance data would yield sufficient data to assist the  
3 governing board in its decision whether to renew the charter for  
4 a period of five (5) years.

5 (2) A one-year renewal pursuant to paragraph (1) shall not  
6 be considered an adjudication and may not be appealed to the  
7 State Charter School Appeal Board.

8 (3) A governing board of a school district of the first  
9 class does not have the authority to renew a charter for  
10 successive one (1) year periods.

11 (c) The following shall apply to all charters granted by a  
12 local board of school directors:

13 (1) An initial charter executed pursuant to subsection (a)  
14 shall be for a period of no less than three (3) years and no  
15 more than five (5) years.

16 (2) For charter schools and regional charter schools, a  
17 charter may be renewed for five (5) year periods upon  
18 reauthorization by the local board of school directors or the  
19 appeal board.

20 (d) (1) A charter school or regional charter school shall  
21 submit a renewal application as provided under section 1719-A(a)  
22 with the local board of school directors by October 1 of the  
23 final year of the charter.

24 (2) Within one hundred twenty (120) days of the receipt of  
25 the complete renewal application, the local board of school  
26 directors shall vote to renew or not renew the charter.

27 (3) A decision by the appeal board under this subsection to  
28 renew a charter shall serve as a requirement for the local board  
29 of school directors of a school district or school districts, as  
30 appropriate, to sign the renewal of the charter for a charter  
31 school or regional charter school as provided for in subsection  
32 (a)(2). If the local board of school directors fails to sign the  
33 renewal within ten (10) days of notice, the charter shall be  
34 signed by the chairman of the appeal board.

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

36 Section 1720.1-A. Amendments.--(a) Subject to subsections  
37 (a.1) and (a.2), a charter school or regional charter school may  
38 request amendments to its approved written charter by filing a  
39 written document describing the requested amendment with the  
40 local board of school directors no later than October 15 of the  
41 school year prior to the school year in which the amendment  
42 would take effect.

43 (a.1) Notwithstanding the notice requirements of subsection  
44 (a), in the event of the impossibility of a charter school's or  
45 regional charter school's compliance with the terms of a charter  
46 due to its inability to acquire services or products outlined in  
47 a charter or facility damage, the charter school or regional  
48 charter school shall immediately notify the local board of  
49 school directors of the necessity for an emergency amendment,  
50 which shall be effective immediately as a temporary amendment  
51 pending completion of the processes set forth in subsections (b)



1 and (c).

2 (a.2) For a five-year charter, a charter school or regional  
3 charter school may only request amendments in year two, three or  
4 four of the charter term. For a three-year charter, a charter  
5 school or regional charter school may only request amendments in  
6 year two of the charter term.

7 (b) Within sixty (60) days of receipt of the charter  
8 amendment request, the local board of school directors shall  
9 hold a public hearing on the requested amendment pursuant to 65  
10 Pa.C.S. Ch. 7 (relating to open meetings).

11 (c) Within sixty (60) days after the hearing required under  
12 subsection (b), the local board of school directors shall grant  
13 or deny the requested amendment. Failure by the local board of  
14 school directors to hold a public hearing and to grant or deny  
15 the requested amendment within the time periods specified in  
16 this section shall be deemed an approval, after which the  
17 amended charter shall be legally binding on both the local board  
18 of school directors and the board of trustees of the charter  
19 school or regional charter school.

20 (d) (Reserved).

21 (e) An applicant for an amendment may appeal the denial of a  
22 requested amendment under this section to the appeal board  
23 provided for under section 1721-A except that an applicant may  
24 not appeal a denial of an amendment related to enrollment growth  
25 or grade expansion.

26 (f) A charter school or regional charter school which has no  
27 restrictions on enrollment expansion shall notify the local  
28 board of school directors if it intends to expand enrollment by  
29 more than ten per centum no later than December 15 of the school  
30 year prior to the school year in which enrollment would be  
31 expanded except notice may be given at any time in the case of  
32 an emergency which requires increased enrollment. The  
33 notification shall include the following:

34 (1) The planned enrollment levels for each grade for the  
35 following school year.

36 (2) If applicable, a description of any changes to an  
37 existing facility needed to accommodate the planned enrollment  
38 levels.

39 (g) A charter school or regional charter school which has no  
40 other restrictions in its charter shall notify the local board  
41 of school directors if it intends to change the location of a  
42 facility or facilities no later than December 15 of the school  
43 year prior to the school year in which the facility change would  
44 take place except notice may be given at any time in the case of  
45 an emergency related to the facility. The notification shall  
46 include the following:

47 (1) A description of the proposed new facility.

48 (2) Information showing that the proposed new facility is  
49 suitable in accordance with the applicable school facility  
50 requirements, including zoning, license and certification of  
51 occupancy requirements.

This subsection shall not apply to a charter school or regional charter school seeking to operate a school at more than one location, which must be requested through the amendment process set forth in section 1720.1-A. A charter school or regional charter school may operate at more than one location within the district or districts that authorized the charter without requesting an amendment if operation in more than one location is permitted by the terms of the charter.

For purposes of this section, an "emergency" shall mean a manmade or natural disaster, including, but not limited to, damage to a school building, another circumstance rendering a school building unfit or unsafe for use, a disease epidemic or a hazardous weather condition. If another emergency arises that requires expanded enrollment or a change in facility, the charter school or regional charter school must consult with the authorizing school district or school districts.

Section 6. Section 1722-A(a), (b) and (d) of the act are amended and the section is amended by adding subsections to read:

Section 1722-A. Facilities.--(a) A charter school entity may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.

(b) The charter school entity facility shall be exempt from public school facility regulations except those pertaining to the health or safety of [the pupils] students.

(b.1) (1) A charter school entity shall have the right of first refusal to purchase or lease, for educational purposes only, a public school building or a part of a public school building that is for sale or lease by a school entity which is the property titleholder, at the price of one of the following:

(i) The last best offer above fair market value received in the ninety (90) days preceding the charter school entity's offer.

(ii) Fair market value, if no offer has been received in the ninety (90) days preceding the charter school entity's offer.

(iii) Below fair market value, upon the mutual agreement of the school entity and the charter school entity.

(2) A school entity shall accept an offer from a charter school entity that conforms to the provisions of paragraph (1).

(3) The department shall provide a page on its publicly accessible Internet website on which school entities are required to post a notice for each public school building or part of a public school building that is available for purchase or lease. A school entity shall submit a notice to the department on a form developed by the department. The department shall post the notice within five (5) days of receiving the form.

(4) The following shall apply to the sale or lease of a public school building or a part of a public school building by

1 a school entity:

2 (i) A school entity may not enter into a contract to sell or  
3 lease a building or part of a building until at least thirty  
4 (30) days after the posting of a notice as required under  
5 paragraph (3).

6 (ii) If two or more charter school entities make offers on  
7 the same building or part of a building that conforms to the  
8 provisions of this subsection, the school entity shall:

9 (A) Accept the first offer, if the offers are equal in  
10 dollar amount.

11 (B) Accept the best offer, if the offers differ in dollar  
12 amount.

13 (d) [Notwithstanding any other provision of this act, a  
14 school district of the first class may, in its discretion,  
15 permit a charter school to operate its school at more than one  
16 location.] A charter school or regional charter school may  
17 operate the school at more than one location within the district  
18 that authorized the charter, as long as expressly permitted by  
19 the terms of its charter.

20 \* \* \*

21 (f) School districts, intermediate units, community colleges  
22 and institutions under Article XX-A shall provide a cyber  
23 charter school with reasonable access to their facilities for  
24 the administration of standardized testing as follows:

25 (1) A cyber charter school shall provide an intermediate  
26 unit, school district, community college or institution under  
27 Article XX-A with at least sixty (60) days' notice of the need  
28 for facilities to be used for the administration of standardized  
29 tests.

30 (2) Within thirty (30) days of the cyber charter school's  
31 request, the intermediate unit, school district, community  
32 college or institution under Article XX-A shall notify the cyber  
33 charter school of the location of the facilities that will be  
34 provided, which shall be a quiet, separate location in which  
35 cyber charter school students will not be commingled with  
36 students of the intermediate unit, school district, community  
37 college or institution under Article XX-A.

38 (3) An intermediate unit, school district of residence,  
39 community college or institution under Article XX-A shall not be  
40 required to make facilities available to a cyber charter school  
41 on dates and at times that may cause undue interference with the  
42 educational programs of the intermediate unit, school district,  
43 community college or institution under Article XX-A.

44 (4) Any facilities rental fee charged to the cyber charter  
45 school and the payment thereof shall be in compliance with the  
46 facility rental policy of the intermediate unit, school  
47 district, community college or institution under Article XX-A  
48 that applies generally to all organizations and community  
49 groups.

50 (g) As used in this section, "charter school entity" shall  
51 mean a charter school, regional charter school or cyber charter

1 school.

2 Section 7. Section 1723-A(a) and (b) of the act are amended  
3 and the section is amended by adding subsections to read:

4 Section 1723-A. [Enrollment] Admission and Enrollment  
5 Requirements.--(a) (1) All resident children in this

6 Commonwealth who submit a completed enrollment form in  
7 accordance with clauses (3) and (4) qualify for admission to a  
8 charter school entity within the provisions of subsection (b).

9 [If] In the case of a charter school or regional charter school,  
10 if more students apply to the charter school or regional charter  
11 school than the number of attendance slots available in the  
12 school, then students must be selected on a random basis from a  
13 pool of [qualified applicants meeting the established  
14 eligibility criteria and submitting an application] eligible  
15 applicants who have submitted an enrollment form in accordance  
16 with clauses (3) and (4) by the deadline established by the  
17 charter school or regional charter school, except that the  
18 charter school or regional charter school may give preference in  
19 enrollment to a child of a parent who has actively participated  
20 in the development of the charter school [and] or regional  
21 charter school, to siblings of students presently enrolled in  
22 the charter school or regional charter school and to siblings of  
23 students selected for enrollment during the lottery process.  
24 First preference shall be given to students who reside in the  
25 district or districts[.] in which the charter school is  
26 physically located or in which the regional charter school is  
27 chartered.

28 (2) If a charter school or regional charter school has a  
29 waiting list following its initial selection of eligible  
30 applicants under clause (1), the charter school or regional  
31 charter school shall select and enroll eligible applicants from  
32 the waiting list as spaces become available. All children shall  
33 be assigned to the waiting list on a random basis. When  
34 selecting and enrolling eligible applicants from the waiting  
35 list, a charter school or regional charter school shall give  
36 first preference to students as provided under clause (1) and to  
37 those who reside in the district or districts in which the  
38 charter school is physically located or in which the regional  
39 charter school is chartered until the charter school or regional  
40 charter school again reaches its maximum capacity of students.  
41 If a charter school or regional charter school has a waiting  
42 list, once the charter school or regional charter school has  
43 exhausted the waiting list of resident children, it may then  
44 enroll children on the waiting list who reside outside of the  
45 district. Nonresident children shall also be selected and  
46 enrolled on a random basis.

47 (3) The department, in consultation with representatives of  
48 charter school entities, shall develop a standard enrollment  
49 form in both paper and electronic formats that shall be used by  
50 all eligible applicants to apply to a charter school entity. The  
51 standard enrollment form shall only request information

1 necessary to allow the charter school entity to identify the  
2 student, grade level and residency, including:

3 (i) The student's name, physical address, telephone number,  
4 age, birth date and current grade level.

5 (ii) The name, physical address, telephone number and e-mail  
6 address of the student's parent or guardian.

7 (4) The standard enrollment form shall be made physically  
8 available at each charter school entity, in a form that complies  
9 with Federal and State law, and posted on the publicly  
10 accessible Internet website of each charter school entity, if  
11 available. A charter school entity may accept the enrollment  
12 form via paper or electronic means.

13 (5) When a student applies to a charter school entity, a  
14 charter school entity shall not require or request information  
15 beyond the contents of the standard enrollment form developed by  
16 the department.

17 (6) Nothing in this section shall prohibit a charter school  
18 entity from requesting the submission of additional records and  
19 information that public schools are entitled to receive after a  
20 student is accepted for admission to, and has indicated an  
21 intent to enroll in, the charter school entity.

22 (7) As used in this subsection, "eligible applicant" shall  
23 mean a student who is seeking to enter a grade level offered by  
24 the charter school entity and meets the requirements of 22 Pa.  
25 Code §§ 11.12 (relating to school age), 11.13 (relating to  
26 compulsory school age), 11.14 (relating to admission to  
27 kindergarten when provided), 11.15 (relating to admission of  
28 beginners), 11.16 (relating to early admission of beginners) and  
29 12.1 (relating to free education and attendance) and student  
30 residency requirements.

31 (b) (1) A charter school entity shall not discriminate in  
32 its admission policies or practices on the basis of intellectual  
33 ability, [except as provided in paragraph (2), or] athletic  
34 ability, measures of achievement or aptitude, status as a person  
35 with a disability, proficiency in the English language or any  
36 other basis that would be illegal if used by a school district.

37 (2) A charter school entity may limit [admission] its  
38 academic focus to a particular grade level, a targeted  
39 population group composed of at-risk students[, or areas of  
40 concentration of the school such as mathematics, science or the  
41 arts. A charter school may establish reasonable criteria to  
42 evaluate prospective students which shall be outlined in the  
43 school's charter.] or a specialized area or accelerated program  
44 of study, such as mathematics, science or the arts. A performing  
45 arts charter school entity may establish reasonable artistic  
46 criteria for admission for grades nine through twelve, which  
47 must be outlined in the school's charter to evaluate prospective  
48 students for enrollment.

49 \* \* \*

50 (e) A school district's obligation to make payments for  
51 students enrolled in a charter school entity shall be governed

1 by section 1725-A or, in the case of students who are below a  
2 school district's age of enrollment, by the terms of any charter  
3 or service contract between a school district and a charter  
4 school entity. Notwithstanding the above, absent language to the  
5 contrary in a charter or service contract between a school  
6 district and a charter school entity, a school district shall  
7 not be obligated to fund a four-year-old kindergarten program if  
8 the school district has exercised its discretion not to offer  
9 such a program in its own schools.

10 (f) Upon notification of the nonrenewal or termination of a  
11 charter under section 1729-A, a charter school may not enroll  
12 new students unless the charter school files an appeal to the  
13 Charter School Appeal Board. If the charter school's appeal is  
14 denied by the Charter School Appeal Board, the charter school  
15 must immediately stop enrolling new students.

16 Section 8. Section 1727-A of the act is amended to read:

17 Section 1727-A. [Tort Liability] Liability and Security.--

18 (a) For purposes of tort liability, employees of the charter  
19 school shall be considered public employees and the board of  
20 trustees shall be considered the public employer in the same  
21 manner as political subdivisions and local agencies. The board  
22 of trustees of a charter school and the charter school shall be  
23 solely liable for any and all damages of any kind resulting from  
24 any legal challenge involving the operation of a charter school.  
25 Notwithstanding this requirement, the local board of directors  
26 of a school entity shall not be held liable for any activity or  
27 operation related to the program of the charter school.

28 (b) (1) A charter school shall possess and maintain  
29 adequate and appropriate insurance, bond or other security as  
30 provided under section 1719-A(a)(17). The insurance, bond or  
31 other security shall be continuously maintained and shall  
32 provide coverage during the time the charter school is in  
33 operation and for sufficient time following the charter school's  
34 closure to make payment on all claims known or which could have  
35 been known to exist at the time of the school's closure.

36 (2) The insurance, bond or other security shall provide  
37 coverage for educational services and fees and costs incurred by  
38 a charter school and prevailing parties under the Individuals  
39 with Disabilities Education Act (Public Law 91-230, 20 U.S.C. §  
40 1400 et seq.), section 504 of the Rehabilitation Act of 1973  
41 (Public Law 93-112, 29 U.S.C. § 701 et seq.) and related Federal  
42 or State laws, salary and wage payments due to employees,  
43 employer and employee contributions for the Pennsylvania School  
44 Employees Retirement System and other retirement programs  
45 offered to employees, medical and other health insurance benefits  
46 offered to employees, workers compensation, unemployment  
47 compensation and taxes and other liabilities to Federal, State  
48 and local tax agencies, school district overpayments under  
49 section 1725-A and other liabilities reasonably connected to the  
50 charter school's operations.

51 (3) The insurance, bond or other security shall name as

additional insureds, or otherwise provide coverage for, the charter authorizer and the Commonwealth and its agencies and officials.

(4) Evidence of adequate and appropriate insurance, bond or other security as required by this subsection shall be made available to the local board of school directors and the department at the time of initial application and at the time of submission of the charter renewal application. The charter school shall also provide evidence of the insurance, bond or other security to parents or employees of the charter school or to the local board of school directors or the department upon request. The charter school shall provide written notice to the local board of school directors and to the department within ten (10) days of any change to the insurance, bond or security.

Section 9. The act is amended by adding a section to read:

Section 1731.1-A. Fund Balance Limits.--Fund balance limits shall be as follows:

(1) For the 2018-2019 school year and each school year thereafter, a charter school entity shall not accumulate an unassigned fund balance greater than the charter school entity unassigned fund balance limit, which will be determined as follows:

<u>Charter School Entity</u> <u>Total Budgeted Expenditures</u>	<u>Maximum Unassigned Fund</u> <u>Balance as Percentage of</u> <u>Total Budgeted Expenditures</u>
<u>Less than or equal to \$11,999,999</u>	<u>12%</u>
<u>Between \$12,000,000 and \$12,999,999</u>	<u>11.5%</u>
<u>Between \$13,000,000 and \$13,999,999</u>	<u>11%</u>
<u>Between \$14,000,000 and \$14,999,999</u>	<u>10.5%</u>
<u>Between \$15,000,000 and \$15,999,999</u>	<u>10%</u>
<u>Between \$16,000,000 and \$16,999,999</u>	<u>9.5%</u>
<u>Between \$17,000,000 and \$17,999,999</u>	<u>9%</u>
<u>Between \$18,000,000 and \$18,999,999</u>	<u>8.5%</u>
<u>Greater than or equal to \$19,000,000</u>	<u>8%</u>

(2) For the 2018-2019 school year and each school year thereafter, any unassigned fund balance in place on June 30, 2019, and on June 30 of each year thereafter in excess of the charter school entity unassigned fund balance limit shall be refunded on a pro rata basis within ninety (90) days to all school districts that paid tuition to the charter school entity in the prior school year, based upon the number of students for whom each school district paid tuition to the charter school entity multiplied by the school district's per student payment under section 1725-A.

(3) By October 31, 2019, and by October 31 of each year thereafter, each charter school entity shall provide the department and all school districts that paid tuition to the charter school entity in the prior school year with information certifying compliance with this section. The information shall be provided in a form and manner prescribed by the department and shall include information on the charter school entity's

1 estimated ending unassigned fund balance expressed as a dollar  
2 amount and as a percentage of the charter school entity's total  
3 budgeted expenditures for that school year.

4 (4) Unassigned funds of the charter school entity in excess  
5 of the unassigned fund balance limit may not be used to pay  
6 bonuses to any administrator, board of trustees member, employee,  
7 staff member or contractor and may not be transferred to a  
8 charter school foundation. If a charter school entity uses funds  
9 in excess of the unassigned fund balance limit to pay bonuses to  
10 any administrator, board of trustees member, employee, staff  
11 member or contractor or transfers such funds to a charter school  
12 foundation, the value of the bonus payment or fund transfer  
13 shall be refunded on a pro rata basis to all school districts  
14 that paid tuition to the charter school entity in the prior  
15 school year, based upon the number of students for whom each  
16 school district paid tuition to the charter school entity  
17 multiplied by the school district's per student payment under  
18 section 1725-A.

19 (5) As used in this section, "unassigned fund balance" shall  
20 mean that portion of the fund balance of a charter school entity  
21 that provides funding that serves to support the charter school  
22 entity that is:

23 (i) available for expenditure or not legally or otherwise  
24 segregated for a specific or tentative future use; and

25 (ii) held in the General Fund accounts of the charter school  
26 entity.

27 Section 10. Sections 1743-A(e), 1744-A(2) and 1745-A of the  
28 act are amended to read:

29 Section 1743-A. Cyber charter school requirements and  
30 prohibitions.

31 \* \* \*

32 (e) Students.--For each student enrolled, a cyber charter  
33 school shall:

34 (1) provide all instructional materials, which may  
35 include electronic or digital books in place of textbooks;

36 (2) provide all equipment, including, but not limited  
37 to, a computer, computer monitor and printer, provided that a  
38 parent or guardian of more than one child who is enrolled in  
39 the same cyber charter school may elect not to receive a  
40 separate computer, computer monitor and printer for each  
41 enrolled child; and

42 (3) provide or reimburse for all technology and services  
43 necessary for the on-line delivery of the curriculum and  
44 instruction.

45 The Commonwealth shall not be liable for any reimbursement owed  
46 to students, parents or guardians by a cyber charter school  
47 under paragraph (3).

48 \* \* \*

49 Section 1744-A. School district and intermediate unit  
50 responsibilities.

51 An intermediate unit or a school district in which a student



1 enrolled in a cyber charter school resides shall do all of the  
2 following:

3 \* \* \*

4 [(2) Provide the cyber charter school with reasonable  
5 access to its facilities for the administration of  
6 standardized tests required under this subdivision.]

7 \* \* \*

8 Section 1745-A. Establishment of cyber charter school.

9 (a) Establishment.--A cyber charter school may be  
10 established by an individual; one or more teachers who will  
11 teach at the proposed cyber charter school; parents or guardians  
12 of students who will enroll in the cyber charter school; a  
13 nonsectarian college, university or museum located in this  
14 Commonwealth; a nonsectarian corporation not-for-profit as  
15 defined in 15 Pa.C.S. § 5103 (relating to definitions); a  
16 corporation, association or partnership; or any combination of  
17 the foregoing. Section 1327.1 shall not apply to a cyber charter  
18 school established under this subdivision.

19 (b) Sectarian entities.--No cyber charter school shall be  
20 established or funded by and no charter shall be granted to a  
21 sectarian school, institution or other entity.

22 (b.1) Local board of school directors or intermediate  
23 unit.--

24 (1) Nothing in this article shall be construed to  
25 preclude a school district or an intermediate unit from  
26 offering instruction via the Internet or other electronic  
27 means, except that the instruction shall not be recognized as  
28 a cyber charter school under this article unless the school  
29 district or intermediate unit establishes a cyber charter  
30 school under subsection (a) and paragraph (2).

31 (2) A cyber charter school may be established by a local  
32 board of school directors or an intermediate unit if the  
33 procedures and requirements of this article are satisfied.

34 (c) Attendance.--Attendance at a cyber charter school shall  
35 satisfy requirements for compulsory attendance.

36 (d) Application.--An application to establish a cyber  
37 charter school shall be submitted to the department by October 1  
38 of the school year preceding the school year in which the cyber  
39 charter school proposes to commence operation.

40 (e) Grant or denial.--Within 120 days of receipt of an  
41 application, the department shall grant or deny the application.  
42 The department shall review the application and shall hold at  
43 least one public hearing under 65 Pa.C.S. Ch. 7 (relating to  
44 open meetings). At least 30 days prior to the hearing, the  
45 department shall publish in the Pennsylvania Bulletin and on the  
46 department's [World Wide Web site] publicly accessible Internet  
47 website notice of the hearing and the purpose of the  
48 application.

49 (f) Evaluation criteria.--

50 (1) A cyber charter school application pursuant to  
51 section 1719-A submitted under this subdivision shall be

1 evaluated by the department based on the following criteria:

2 (i) The demonstrated, sustainable support for the  
3 cyber charter school plan by teachers, parents or  
4 guardians and students.

5 (ii) The capability of the cyber charter school  
6 applicant, in terms of support and planning, to provide  
7 comprehensive learning experiences to students under the  
8 charter.

9 (iii) The extent to which the programs outlined in  
10 the application will enable students to meet the academic  
11 standards under 22 Pa. Code Ch. 4 (relating to academic  
12 standards and assessment) or subsequent regulations  
13 promulgated to replace 22 Pa. Code Ch. 4.

14 (iv) The extent to which the application meets the  
15 requirements of section 1747-A.

16 (v) The extent to which the cyber charter school may  
17 serve as a model for other public schools.

18 (2) Written notice of the action of the department shall  
19 be sent by certified mail to the applicant and published on  
20 the department's [World Wide Web site] publicly accessible  
21 Internet website. If the application is denied, the reasons  
22 for denial, including a description of deficiencies in the  
23 application, shall be clearly stated in the notice.

24 (3) Upon approval of a cyber charter school application,  
25 a written charter shall be developed which shall contain the  
26 provisions of the charter application and be signed by the  
27 secretary and each member of the board of trustees of the  
28 cyber charter school. The charter, when duly signed, shall  
29 act as legal authorization of the establishment of a cyber  
30 charter school. The charter shall be legally binding on the  
31 department, the cyber charter school and its board of  
32 trustees. The charter [shall be for a period of no less than  
33 three years nor more than five years and may be renewed for a  
34 period of five years by the department.] term shall be as  
35 follows:

36 (i) An initial charter granted under this section  
37 shall be for a period of no less than three years and no  
38 more than five years.

39 (ii) For cyber charter schools, a charter may be  
40 renewed for five-year periods upon reauthorization by the  
41 department.

42 (4) (i) A cyber charter school shall submit a renewal  
43 application as provided under section 1719-A with the  
44 department by October 1 of the final year of the charter.

45 (ii) Within 120 days of its receipt of the renewal  
46 application, the department shall renew or not renew the  
47 charter.

48 [(4)] (5) The decision of the department to deny an  
49 application may be appealed to the appeal board.

50 (6) (i) Subject to subparagraph (ii), a cyber charter  
51 school may request amendments to its approved written

1 charter by filing with the department a written document  
2 describing the requested amendment no later than October  
3 15 of the school year prior to the school year in which  
4 the amendment would take effect.

5 (ii) Notwithstanding the notice requirements of  
6 subparagraph (i), in the event of the impossibility of a  
7 cyber charter school's compliance with the terms of a  
8 charter due to its inability to acquire services or  
9 products outlined in a charter or facility damage, the  
10 cyber charter school shall immediately notify the  
11 department of the necessity for an emergency amendment,  
12 which shall be effective immediately as a temporary  
13 amendment pending completion of the processes set forth  
14 in paragraphs (7) and (8).

15 (iii) For a five-year charter, a cyber charter  
16 school may only request amendments in year two, three or  
17 four of the charter term. For a three-year charter, a  
18 cyber charter school may only request amendments in year  
19 two.

20 (7) Within 60 days of its receipt of the charter  
21 amendment request, the department shall hold a public hearing  
22 on the requested amendment under 65 Pa.C.S. Ch. 7.

23 (8) Within 60 days after the hearing required under  
24 paragraph (7), the department shall grant or deny the  
25 requested amendment. Failure by the department to hold a  
26 public hearing and to grant or deny the requested amendment  
27 within the time periods specified in this section shall be  
28 deemed an approval, after which the amended charter shall be  
29 legally binding on both the department and the board of  
30 trustees of the cyber charter school.

31 (9) An applicant for an amendment may appeal the denial  
32 of a requested amendment under this section to the appeal  
33 board provided for under section 1721-A except that an  
34 applicant may not appeal a denial related to enrollment  
35 growth or grade expansion.

36 (g) Denied application.--A cyber charter school applicant  
37 may revise and resubmit a denied application to the department.  
38 The department shall grant or deny the revised application  
39 within 60 days after its receipt.

40 (h) Appeal.--If the department fails to hold the required  
41 public hearing or to approve or disapprove the charter, the  
42 applicant may file its application as an appeal to the appeal  
43 board. The appeal board shall review the application and make a  
44 decision to approve or disapprove the charter based on the  
45 criteria in subsection (f).

46 Section 11. This act shall take effect as follows:

47 (1) The addition of section 130 of the act shall take  
48 effect in six months.

49 (2) This section shall take effect immediately.

50 (3) The remainder of this act shall take effect in 60  
51 days.