AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in pupils and attendance, providing for transfer of attendance records to another school entity or nonpublic school; in charter schools, further providing for definitions, for establishment of charter school, for contents of application and for term and form of charter, providing for amendments and further providing for enrollment, for cyber charter school requirements and prohibitions, FOR TORT LIABILITY and for establishment of cyber charter school.

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

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

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

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

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

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

(c) For purposes of this section, the term "school entity" means a public school district, charter school, cyber charter school, regional charter school, intermediate unit or area vocational-technical school.

Section 2. Sections 1703-A, 1717-A(c), (d), (e) and (f), 1719-A and 1720-A of the act are amended to read:

SECTION 1703-A. DEFINITIONS.—AS USED IN THIS ARTICLE, "ADMINISTRATOR" SHALL INCLUDE AN EMPLOYEE OF A CHARTER SCHOOL ENTITY, INCLUDING THE CHIEF ADMINISTRATOR OF A CHARTER SCHOOL ENTITY AND ANY OTHER EMPLOYEE, WHO BY VIRTUE OF THE EMPLOYEE'S POSITION IS RESPONSIBLE FOR TAKING OFFICIAL ACTION OF A NONMINISTERIAL NATURE WITH REGARD TO CONTRACTING OR PROCUREMENT, ADMINISTERING OR MONITORING GRANTS OR SUBSIDIES, MANAGING OR REGULATING STAFF, STUDENT AND SCHOOL ACTIVITIES OR ANY ACTIVITY WHERE THE OFFICIAL ACTION HAS AN ECONOMIC IMPACT OF GREATER THAN A DE MINIMIS NATURE ON THE INTERESTS OF ANY PERSON.

"AID RATIO" AND "MARKET VALUE/INCOME AID RATIO" SHALL BE:

(1) THE AID RATIO AND MARKET VALUE/INCOME AID RATIO FOR THE SCHOOL DISTRICT THAT GRANTED A CHARTER TO THE CHARTER SCHOOL;
(2) For a Regional Charter School, the aid ratio and market value/income aid ratio shall be a composite, as determined by the Department, based on the school districts that granted the charter; or

(3) For a Cyber Charter School, the aid ratio and market value/income aid ratio shall be that of the school district in which the administrative offices of the Cyber Charter School are located.

"Appeal Board" shall mean the State Charter School Appeal Board established by this Article.

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

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

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

"Charter school entity" shall mean a charter school, Regional Charter School or Cyber Charter School.

"Charter school foundation" shall mean a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that provides funding, resources or otherwise serves to support a
CHARTER SCHOOL ENTITY, EITHER DIRECTLY OR THROUGH AN AFFILIATED ENTITY.

"CHIEF ADMINISTRATOR" SHALL MEAN AN INDIVIDUAL APPOINTED BY A BOARD OF TRUSTEES TO OVERSEE AND MANAGE THE OPERATION OF A CHARTER SCHOOL ENTITY. THE TERM SHALL NOT INCLUDE A PROFESSIONAL STAFF MEMBER UNDER THIS ARTICLE.

"CYBER CHARTER SCHOOL" SHALL MEAN AN INDEPENDENT PUBLIC SCHOOL ESTABLISHED AND OPERATED UNDER A CHARTER FROM THE DEPARTMENT OF EDUCATION AND IN WHICH THE SCHOOL USES TECHNOLOGY, INCLUDING ELECTRONIC OR DIGITAL BOOKS, IN ORDER TO PROVIDE A SIGNIFICANT PORTION OF ITS CURRICULUM AND TO DELIVER A SIGNIFICANT PORTION OF INSTRUCTION TO ITS STUDENTS THROUGH THE INTERNET OR OTHER ELECTRONIC MEANS. A CYBER CHARTER SCHOOL MUST BE ORGANIZED AS A PUBLIC, NONPROFIT CORPORATION. A CHARTER MAY NOT BE GRANTED TO A FOR-PROFIT ENTITY.

"DEPARTMENT" SHALL MEAN THE DEPARTMENT OF EDUCATION OF THE COMMONWEALTH.

"EDUCATIONAL MANAGEMENT SERVICE PROVIDER" SHALL MEAN A NONPROFIT CHARTER MANAGEMENT ORGANIZATION, FOR-PROFIT EDUCATION MANAGEMENT ORGANIZATION, SCHOOL DESIGN PROVIDER, BUSINESS MANAGER OR ANY OTHER PARTNER ENTITY WITH WHICH A BOARD OF TRUSTEES OF A CHARTER SCHOOL ENTITY CONTRACTS TO PROVIDE EDUCATIONAL DESIGN, BUSINESS SERVICES, COMPREHENSIVE MANAGEMENT OR PERSONNEL FUNCTIONS OR TO IMPLEMENT THE CHARTER. THE TERM SHALL NOT INCLUDE A CHARTER SCHOOL FOUNDATION.

"LOCAL BOARD OF SCHOOL DIRECTORS" SHALL MEAN THE BOARD OF DIRECTORS OR OTHER GOVERNING AUTHORITY OF A SCHOOL DISTRICT IN WHICH A PROPOSED OR AN APPROVED CHARTER SCHOOL IS LOCATED.

"REGIONAL CHARTER SCHOOL" SHALL MEAN AN INDEPENDENT PUBLIC SCHOOL ESTABLISHED AND OPERATED UNDER A CHARTER FROM MORE THAN
Section 1717-A. Establishment of Charter School.--* * *

(c) An application to establish a charter school shall be submitted to the local board of school directors of the district where the charter school will be located by [November 15] October 1 of the school year preceding the school year in which the charter school will be established except that for a charter school beginning in the 1997-1998 school year, an application must be received by July 15, 1997. In the 1997-1998 school year only, applications shall be limited to recipients of fiscal year 1996-1997 Department of Education charter school planning grants.

(d) Within forty-five (45) days of receipt of an application, the local board of school directors in which the proposed charter school is to be located shall hold at least one public hearing on the provisions of the charter application,
under [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).

At least forty-five (45) days must transpire between the first public hearing and the final decision of the board on the charter application except that for a charter school beginning in the 1997-1998 school year, only thirty (30) days must transpire between the first public hearing and the final decision of the board.

(e) (1) Not later than seventy-five (75) days after the first public hearing on the application, the local board of school directors shall grant or deny the application. For a charter school beginning in the 1997-1998 school year, the local board of school directors shall grant or deny the application no later than sixty (60) days after the first public hearing.

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

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

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

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

(iv) The extent to which the charter school may serve as a model for other public schools and share best practices.
(3) The local board of school directors, in the case of an existing school being converted to a charter school, shall establish the alternative arrangements for current students who choose not to attend the charter school.

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

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

(f) At the option of the charter school applicant, a denied application may be revised and resubmitted to the local board of school directors. Following the appointment and confirmation of the Charter School Appeal Board under section 1721-A, the decision of the local board of school directors may be appealed to the appeal board. When an application is revised and resubmitted to the local board of school directors, the board may schedule additional public hearings on the revised application. The board shall consider the revised and resubmitted application at the first board meeting occurring at least forty-five (45) days after receipt of the revised application by the board. For a revised application resubmitted for the 1997-1998 school year, the board shall consider the
application at the first board meeting occurring at least thirty (30) days after its receipt. The board shall provide notice of consideration of the revised application under [the "Sunshine Act."] 65 Pa.C.S. Ch. 7. No appeal from a decision of a local school board may be taken until July 1, 1999.

* * *

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

(1) The identification of the charter school applicant.

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

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

(4) [The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.] An organization chart clearly presenting the proposed governance structure of the school, including lines of authority and reporting between the board of trustees, administrators, staff and any educational management service provider that will provide management services to the charter school entity.

(4.1) A clear description of the roles and responsibilities of the board of trustees, administrators and any other entities, including a charter school foundation, shown in the organization chart.
(4.2) A clear description of the method for the appointment or election of members of the board of trustees.

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

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

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

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

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

(B) The proposed duration of the service contract.

(C) Roles and responsibilities of the board of trustees, the school staff and the educational management service provider.

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

(E) Performance evaluation measures and timelines.

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

(G) Methods of contract oversight and enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

(14) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school entity students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school entity from participating in any extracurricular activity of that school district of residence: Provided, That the student is able to fulfill all of the requirements of participation in such activity and the charter school entity does not provide the same extracurricular activity.

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

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

(17) How the charter school entity will provide adequate liability and other appropriate insurance for the charter school entity, its employes and the board of trustees of the charter school entity.

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

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

(b) A local board of school directors may not impose additional terms, develop its own application or require additional information outside the standard application forms required under subsection (a). The department shall review the

REQUIRED UNDER SUBSECTION (A).

(C) THE DEPARTMENT SHALL REVIEW THE standard application forms every three (3) years and shall submit any recommended revisions in writing to the Education Committee of the Senate and the Education Committee of the House of Representatives STATE BOARD. No such recommended revisions shall be made to the standard application forms unless the revisions are enacted APPROVED by the General Assembly. STATE BOARD. REVISIONS UNDER
THIS SUBSECTION SHALL BE AS FOLLOWS:

(1) THE STATE BOARD SHALL TRANSMIT NOTICE OF THE DEPARTMENT'S PROPOSED REVISIONS TO THE STANDARD APPLICATION FORMS TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN. THE STATE BOARD SHALL GIVE AT LEAST THIRTY (30) DAYS FOR THE SUBMISSION OF PUBLIC COMMENT AND SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PROPOSED REVISIONS.


Section 1720-A. Term and Form of Charter.--(a) Upon approval of a charter application under section 1717-A, a written charter shall be developed which shall contain the provisions of the standard charter application under section 1719-A and which shall be signed by the local board of school directors [of a school district], by the local boards of school directors [of a school district] in the case of a regional charter school or by the chairman of the appeal board pursuant
to section [1717-A(i)(5)] 1717-A(i)(9) and the board of trustees of the charter school or regional charter school. This written charter, when duly signed by the local board of school directors or the board of trustees of the charter school or regional charter school or by the chairman of the appeal board, and the charter school or regional charter school's board of trustees, shall act as legal authorization for the establishment of a charter school or regional charter school. This written charter shall be legally binding on both the local board of school directors and the charter school or regional charter school's board of trustees. [Except as otherwise provided in subsection (b), the charter shall be for a period of no less than three (3) nor more than five (5) years and may be renewed for five (5) year periods upon reauthorization by the local board of school directors of a school district or the appeal board.] If the charter school or regional charter school contracts with an educational management service provider, a contract shall be executed when the charter is approved. A charter will be granted only for a school organized as a public, nonprofit corporation. (b)  (1) Notwithstanding subsection [(a)] (c), a governing board of a school district of the first class may renew a charter for a period of one (1) year if the board of school directors determines that there is insufficient data concerning the charter school's academic performance to adequately assess that performance and determines that an additional year of performance data would yield sufficient data to assist the governing board in its decision whether to renew the charter for a period of five (5) years.
(2) A one-year renewal pursuant to paragraph (1) shall not be considered an adjudication and may not be appealed to the State Charter School Appeal Board.

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

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

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

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

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

(2) Within ninety (90) days of receipt of the COMPLETE renewal application, the local board of school directors shall vote to renew or not renew the charter.

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

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

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

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

(A.2) FOR A FIVE-YEAR CHARTER, A CHARTER SCHOOL OR REGIONAL CHARTER SCHOOL MAY ONLY REQUEST AMENDMENTS IN YEAR TWO, THREE OR FOUR OF THE CHARTER TERM. FOR A THREE-YEAR CHARTER, A CHARTER SCHOOL OR REGIONAL CHARTER SCHOOL MAY ONLY REQUEST AMENDMENTS IN YEAR TWO OF THE CHARTER TERM.

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

(c) Within sixty (60) days after the hearing required under subsection (b), the local board of school directors shall grant

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or deny the requested amendment. Failure by the local board of
school directors to hold a public hearing and to grant or deny
the requested amendment within the time periods specified in
this section shall be deemed an approval, after which the
amended charter shall be legally binding on both the local board
of school directors and the board of trustees of the charter
school or regional charter school.

(d) Notwithstanding subsection (a), a charter school or
regional charter school also may request amendments to its
approved written charter at the time of renewal. Charter
amendment requests made at the time of renewal shall be
considered distinct requests that shall be subject to
independent approval or denial by the local board of school
directors, in accordance with the provisions of this section.

(RESERVED).

(e) An applicant for an amendment may appeal the denial of a
requested amendment under this section to the appeal board
provided for under section 1721-A EXCEPT THAT AN APPLICANT MAY NOT APPEAL A DENIAL OF AN AMENDMENT RELATED TO ENROLLMENT GROWTH OR GRADE EXPANSION.

(f) Except in the case of an emergency, a charter school or
regional charter school which has no restrictions on
enrollment expansion shall notify the local board of school
directors if it intends to expand enrollment by more than ten
per centum no later than December 15 of the school year prior to
the school year in which enrollment would be expanded EXCEPT NOTICE MAY BE GIVEN AT ANY TIME IN THE CASE OF AN EMERGENCY WHICH REQUIRES INCREASED ENROLLMENT. The notification shall include the following:

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

(2) If applicable, a description of any CHANGES TO AN
EXISTING facility changes needed to accommodate the planned
enrollment levels.

(g) Except in the case of an emergency, a charter school or regional charter school which has no OTHER restrictions on
enrollment expansion IN ITS CHARTER shall notify the local board of school directors if it intends to change the location of a
facility or facilities no later than December 15 of the school year prior to the school year in which the facility change would
 take place EXCEPT NOTICE MAY BE GIVEN AT ANY TIME IN THE CASE OF AN EMERGENCY RELATED TO THE FACILITY. The notification shall include the following:

(1) A description of the proposed new facility.

(2) Information showing that the proposed new facility is suitable in accordance with the applicable school facility requirements, including zoning, license and certification of 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 4. Section 1723-A(a) and (b) of the act are amended
and the section is amended by adding a subsection SUBSECTIONS to read:

Section 1723-A. [Enrollment] Admission and Enrollment Requirements.--(a) (1) All resident children in this
Commonwealth who submit a completed enrollment form in
accordance with clauses (3) and (4) qualify for admission to a
charter school entity within the provisions of subsection (b).
[If] In the case of a charter school or regional charter school,
if more students apply to the charter school or regional charter
school than the number of attendance slots available in the
school, then students must be selected on a random basis from a
pool of [qualified applicants meeting the established
eligibility criteria and submitting an application] eligible
applicants who have submitted an enrollment form in accordance
with clauses (3) and (4) by the deadline established by the
charter school or regional charter school, except that the
charter school or regional charter school may give preference in
enrollment to a child of a parent who has actively participated
in the development of the charter school [and] or regional
charter school, to siblings of students presently enrolled in
the charter school or regional charter school and to siblings of
students selected for enrollment during the lottery process.
First preference shall be given to students who reside in the
district or districts[.] in which the charter school is
physically located or in which the regional charter school is

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chartered.

(2) If a charter school or regional charter school has a waiting list following its initial selection of eligible applicants under clause (1), the charter school or regional charter school shall select and enroll eligible applicants from the waiting list as spaces become available. All children shall be assigned to the waiting list on a random basis. When selecting and enrolling eligible applicants from the waiting list, a charter school or regional charter school shall give first preference to students as provided under clause (1) and to those who reside in the district or districts in which the charter school is physically located or in which the regional charter school is chartered until the charter school or regional charter school again reaches its maximum capacity of students.

If a charter school or regional charter school has a waiting list, once the charter school or regional charter school has exhausted the waiting list of resident children, it may then enroll children on the waiting list who reside outside of the district. Nonresident children shall also be selected and enrolled on a random basis.

(3) The department, in consultation with representatives of charter school entities, shall develop a standard enrollment form in both paper and electronic formats that shall be used by all eligible applicants to apply to a charter school entity. The standard enrollment form shall only request information necessary to allow the charter school entity to identify the student, grade level and residency, including:

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

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

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

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

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

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

(b) (1) A charter school entity shall not discriminate in its admission policies or practices on the basis of intellectual ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any
other basis that would be illegal if used by a school district.

(2) A charter school entity may limit its academic focus to a particular grade level, a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter or a specialized area or accelerated program of study, such as mathematics, science or the arts. A PERFORMING ARTS CHARTER SCHOOL ENTITY MAY ESTABLISH REASONABLE ARTISTIC CRITERIA FOR ADMISSION FOR GRADES NINE THROUGH TWELVE, WHICH MUST BE OUTLINED IN THE SCHOOL'S CHARTER TO EVALUATE PROSPECTIVE STUDENTS FOR ENROLLMENT.

* * *

(e) A school district's obligation to make payments for students enrolled in a charter school entity shall be governed by section 1725-A or, in the case of students who are below a school district's age of enrollment, by the terms of any charter or service contract between a school district and a charter school entity. Notwithstanding the above, absent language to the contrary in a charter or service contract between a school district and a charter school entity, a school district shall not be obligated to fund a four-year-old kindergarten program if the school district has exercised its discretion not to offer such a program in its own schools.

(F) UPON NOTIFICATION OF THE NONRENEWAL OR TERMINATION OF A CHARTER UNDER SECTION 1729-A, A CHARTER SCHOOL MAY NOT ENROLL NEW STUDENTS UNLESS THE CHARTER SCHOOL FILES AN APPEAL TO THE CHARTER SCHOOL APPEAL BOARD. IF THE CHARTER SCHOOL'S APPEAL IS DENIED BY THE CHARTER SCHOOL APPEAL BOARD, THE CHARTER SCHOOL
MUST IMMEDIATELY STOP ENROLLING NEW STUDENTS.

Section 5. Sections 1727-A, 1743-A(e) and 1745-A of the act are amended to read:

SECTION 1727-A. [TORT LIABILITY] LIABILITY AND SECURITY.--

(A) FOR PURPOSES OF TORT LIABILITY, EMPLOYEES OF THE CHARTER SCHOOL SHALL BE CONSIDERED PUBLIC EMPLOYEES AND THE BOARD OF TRUSTEES SHALL BE CONSIDERED THE PUBLIC EMPLOYER IN THE SAME MANNER AS POLITICAL SUBDIVISIONS AND LOCAL AGENCIES. THE BOARD OF TRUSTEES OF A CHARTER SCHOOL AND THE CHARTER SCHOOL SHALL BE SOLELY LIABLE FOR ANY AND ALL DAMAGES OF ANY KIND RESULTING FROM ANY LEGAL CHALLENGE INVOLVING THE OPERATION OF A CHARTER SCHOOL. NOTWITHSTANDING THIS REQUIREMENT, THE LOCAL BOARD OF DIRECTORS OF A SCHOOL ENTITY SHALL NOT BE HELD LIABLE FOR ANY ACTIVITY OR OPERATION RELATED TO THE PROGRAM OF THE CHARITER SCHOOL.

(B) (1) A CHARTER SCHOOL SHALL POSSESS AND MAINTAIN ADEQUATE AND APPROPRIATE INSURANCE, BOND OR OTHER SECURITY AS PROVIDED UNDER SECTION 1719-A(A)(17). THE INSURANCE, BOND OR OTHER SECURITY SHALL BE CONTINUOUSLY MAINTAINED AND SHALL PROVIDE COVERAGE DURING THE TIME THE CHARTER SCHOOL IS IN OPERATION AND FOR SUFFICIENT TIME FOLLOWING THE CHARTER SCHOOL'S CLOSURE TO MAKE PAYMENT ON ALL CLAIMS KNOWN OR WHICH COULD HAVE BEEN KNOWN TO EXIST AT THE TIME OF THE SCHOOL'S CLOSURE.

EMPLOYEES RETIREMENT SYSTEM AND OTHER RETIREMENT PROGRAMS
OFFERED TO EMPLOYEES, MEDICAL AND OTHER HEALTH INSURANCE BENEFITS
OFFERED TO EMPLOYEES, WORKERS COMPENSATION, UNEMPLOYMENT
COMPENSATION AND TAXES AND OTHER LIABILITIES TO FEDERAL, STATE
AND LOCAL TAX AGENCIES, SCHOOL DISTRICT OVERPAYMENTS UNDER
SECTION 1725-A AND OTHER LIABILITIES REASONABLY CONNECTED TO THE
CHARTER SCHOOL'S OPERATIONS.

(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
DAYS OF ANY CHANGE TO THE INSURANCE, BOND OR SECURITY.

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

* * *

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

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

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

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

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

* * *

Section 1745-A. Establishment of cyber charter school.

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

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

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

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

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

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

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

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

(f) Evaluation criteria.--

(1) A cyber charter school application pursuant to section 1719-A submitted under this subdivision shall be evaluated by the department based on the following criteria:

   (i) The demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students.
(ii) The capability of the cyber charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students under the charter.

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

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

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

(2) Written notice of the action of the department shall be sent by certified mail to the applicant and published on the department's publicly accessible Internet website. If the application is denied, the reasons for denial, including a description of deficiencies in the application, shall be clearly stated in the notice.

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

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

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

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

(ii) Within 90 120 days of its receipt of the renewal application, the department shall renew or not renew the charter.

(5) The decision of the department to deny an application may be appealed to the appeal board.

(6) (i) Subject to subparagraph (ii), a cyber charter school may request amendments to its approved written charter by filing with the department a written document describing the requested amendment no later than December OCTOBER 15 of the school year prior to the school year in which the amendment would take effect.

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

(III) For a five-year charter, a cyber charter school may only request amendments in year two, three or four of the charter term. For a three-year charter, a cyber charter school may only request amendments in year two.

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

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

(9) Notwithstanding paragraph (6), a cyber charter school also may request amendments to its approved written charter at the time of renewal. Charter amendment requests made at the time of renewal shall be considered as distinct requests that shall be subject to independent approval or denial by the department, in accordance with the provisions of this section.

(10) An applicant for an amendment may appeal the denial of a requested amendment under this section to the appeal board provided for under section 1721-A. EXCEPT THAT AN APPLICANT MAY NOT APPEAL A DENIAL RELATED TO ENROLLMENT GROWTH OR GRADE EXPANSION.
(g) Denied application.--A cyber charter school applicant may revise and resubmit a denied application to the department. The department shall grant or deny the revised application within 60 days after its receipt.

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

Section 6. This act shall take effect in 60 days.