
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 999 Session of
1997

INTRODUCED BY MOWERY, RHOADES, JUBELIRER, PICCOLA, HELFRICK,
EARLL, THOMPSON, HART AND GERLACH, MAY 7, 1997

SENATOR RHOADES, EDUCATION, AS AMENDED, JUNE 2, 1997

AN ACT

1 Providing for the establishment of charter schools; providing
2 for powers and duties of the Secretary of Education;
3 establishing a State Charter School Appeal Board; providing
4 for payments to charter schools; and requiring certain
5 reports and recommendations.

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

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Charter
22 School Law.

23 Section 102. Legislative intent.

24 It is the intent of the General Assembly, in enacting this
25 act, to provide opportunities for teachers, parents, pupils and
26 community members to establish and maintain schools that
27 operate independently from the existing school district
28 structure, as a method to accomplish all of the following:

29 (1) Improve pupil learning.

30 (2) Increase learning opportunities for all pupils.

(3) Encourage the use of different and innovative teaching methods.

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(6) Hold the schools established under this act accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Appeal board." The State Charter School Appeal Board established by this act.

"Charter school." 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.

"Department." The Department of Education of the Commonwealth.

"Local board of school directors." The board of directors of a school entity in which a proposed or an approved charter school is located.

"Public School Code." The act of March 10, 1949 (P.L.30,

1 No.14), known as the Public School Code of 1949.

2 "Regional charter school." An independent public school
3 established and operated under a charter from more than one
4 local board of school directors and in which students are
5 enrolled or attend. A regional charter school must be organized
6 as a public, nonprofit corporation. Charters may not be granted
7 to any for-profit entity.

8 "School entity." A school district, intermediate unit, joint
9 school or area vocational-technical school.

10 "Secretary." The Secretary of Education of the Commonwealth.

11 "State board." The State Board of Education of the
12 Commonwealth.

13 CHAPTER 3

14 CHARTER SCHOOLS

15 Section 301. Powers of charter schools.

16 (a) Specific powers.--A charter school established under
17 this act is a body corporate and shall have all powers necessary
18 or desirable for carrying out its charter, including, but not
19 limited to, the power to:

20 (1) Adopt a name and corporate seal; however, any name
21 selected shall include the words "charter school."

22 (2) Sue and be sued, but only to the same extent and
23 upon the same condition that political subdivisions and local
24 agencies can be sued.

25 (3) Acquire real property from public or private sources
26 by purchase, lease, lease with an option to purchase or gift
27 for use as a charter school facility.

28 (4) Receive and disburse funds for charter school
29 purposes only.

30 (5) Make contracts and leases for the procurement of

1 services, equipment and supplies.

2 (6) Incur temporary debts in anticipation of the receipt
3 of funds.

4 (7) Solicit and accept any gifts or grants for charter
5 school purposes.

6 (b) General powers.--A charter school shall have such other
7 powers as are necessary to fulfill its charter and which are not
8 inconsistent with this act.

9 Section 302. Charter school requirements.

10 Charter schools shall be required to comply with the
11 following provisions:

12 (1) Except as otherwise provided in this act, a charter
13 school is exempt from statutory requirements established in
14 the Public School Code, from regulations of the State board
15 and the standards of the secretary not specifically
16 applicable to charter schools. Charter schools are not exempt
17 from statutes applicable to public schools other than the
18 Public School Code.

19 (2) A charter school shall be accountable to the
20 parents, the public and the Commonwealth, with the
21 delineation of that accountability reflected in the charter.
22 Strategies for meaningful parent and community involvement
23 shall be developed and implemented by each school.

24 (3) A charter school shall not unlawfully discriminate
25 in admissions, hiring or operation.

26 (4) A charter school shall be nonsectarian in all
27 operations.

28 (5) A charter school shall not provide any religious
29 instruction, nor shall it display religious objects and
30 symbols on the premises of the charter school.

1 (6) A charter school shall not advocate unlawful
2 behavior.

3 (7) A charter school shall only be subject to the laws
4 and regulations as provided for in section 319, as otherwise
5 provided for in this act.

6 (8) A charter school shall participate in the
7 Pennsylvania State Assessment System as provided for in 22
8 Pa. Code Ch. 5 (relating to curriculum), or subsequent
9 regulations promulgated to replace 22 Pa.Code Ch. 5, in the
10 manner in which the school district in which the charter
11 school is located is scheduled to participate.

12 (9) A charter school shall provide a minimum of 180 days
13 of instruction or 900 hours per year of instruction at the
14 elementary level, or 990 hours per year of instruction at the
15 secondary level. Nothing in this paragraph shall preclude the
16 use of computer and satellite linkages for delivering
17 instruction to students.

18 (10) Boards of trustees and contractors of charter
19 schools shall be subject to the following statutory
20 requirements governing construction projects and
21 construction-related work:

22 (i) The following provisions of the Public School
23 Code:

24 (A) Sections 751 and 751.1.

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

29 (ii) Section 1 of the act of May 1, 1913 (P.L.155,
30 No.104) entitled "An act regulating the letting of

1 certain contracts for the erection, construction, and
2 alteration of public buildings."

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

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

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

8 (11) Trustees of a charter school shall be public
9 officials.

10 Section 303. Powers of board of trustees.

11 (a) Enumeration of powers.--The board of trustees of a
12 charter school shall have the authority to decide matters
13 related to the operation of the school, including, but not
14 limited to, budgeting, curriculum and operating procedures,
15 subject to the school's charter. The board shall have the
16 authority to employ, discharge and contract with necessary
17 professional and nonprofessional employees subject to the
18 school's charter and the provisions of this act.

19 (b) Members of local school boards.--No member of a local
20 board of school directors of a school entity shall serve on the
21 board of trustees of a charter school that is located in the
22 member's district.

23 (c) Open meeting requirement.--The board of trustees shall
24 comply with the act of July 3, 1986 (P.L.388, No.84), known as
25 the Sunshine Act.

26 Section 304. Establishment of charter school.

27 (a) Establishment by teachers, parents and other entities.--
28 A charter school may be established by an individual; one or
29 more teachers who will teach at the proposed charter school;
30 parents or guardians of students who will attend the charter

1 school; any nonsectarian college, university or museum located
2 in this Commonwealth; any nonsectarian corporation not-for-
3 profit, as defined in 15 Pa.C.S. (relating to corporations and
4 unincorporated associations); any corporation; association;
5 partnership; or any combination thereof. A charter school may be
6 established by creating a new school or by converting an
7 existing public school or a portion of an existing public
8 school. No charter school shall be established or funded by and
9 no charter shall be granted to any sectarian school, institution
10 or other entity. NO FUNDS ALLOCATED OR DISBURSED UNDER THIS ACT <—
11 SHALL BE USED TO DIRECTLY SUPPORT INSTRUCTION PURSUANT TO
12 SECTION 1327.1 OF THE PUBLIC SCHOOL CODE.

13 (b) Conversion of an existing school.--

14 (1) The conversion of an existing public school or
15 portion of an existing public school to a charter school may
16 be initiated by any individual or entity authorized to
17 establish a charter school under subsection (a).

18 (2) In order to convert an existing public school to a
19 charter school, the applicants must show that:

20 (i) ~~no-less~~ MORE than 50% of the teaching staff in <—
21 the public school have signed a petition in support of
22 the public school becoming a charter school; and

23 (ii) ~~no-less~~ MORE than 50% of the parents or <—
24 guardians of pupils attending that public school have
25 signed a petition in support of the school becoming a
26 charter school.

27 (3) In no event shall the board of school directors
28 serve as the board of trustees of an existing school which is
29 converted to a charter school pursuant to this subsection.

30 (c) Submission of application.--An application to establish

1 a charter school shall be submitted to the local board of school
2 directors of the district where the charter school will be
3 located by November 15 of the school year preceding the school
4 year in which the charter school will be established except that
5 for a charter school beginning in the 1997-1998 school year, an
6 application must be received by June 1, 1997. IN THE 1997-1998 <—
7 SCHOOL YEAR ONLY, APPLICATIONS SHALL BE LIMITED TO RECIPIENTS OF
8 FISCAL YEAR 1996-1997 DEPARTMENT OF EDUCATION CHARTER SCHOOL
9 PLANNING GRANTS.

10 (d) Public hearing.--Within 45 days of receipt of an
11 application, the local board of school directors in which the
12 proposed charter school is to be located shall hold at least one
13 public hearing on the provisions of the charter application,
14 under the act of July 3, 1986 (P.L.388, No.84), known as the
15 Sunshine Act. At least 45 days must transpire between the first
16 public hearing and the final decision of the board on the
17 charter application except that for a charter school beginning
18 in the 1997-1998 school year, only 30 days must transpire
19 between the first public hearing and the final decision of the
20 board.

21 (e) Approval by local board of school directors.--

22 (1) Not later than 75 days after the first public
23 hearing on the application, the local board of school
24 directors shall grant or deny the application. For a charter
25 school beginning in the 1997-1998 school year, the local
26 board of school directors shall grant or deny the application
27 no later than 60 days after the first public hearing.

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

1 following:

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

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

10 (iii) The extent to which the application considers
11 the information requested in section 306 and conforms to
12 the legislative intent outlined in section 102.

13 (iv) The extent to which the charter school may
14 serve as a model for other public schools.

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

19 (4) A charter application shall be deemed approved by
20 the local board of school directors of a school entity upon
21 affirmative vote by a majority of all the directors. Formal
22 action approving or denying the application shall be taken by
23 the local board of school directors at a public meeting, with
24 notice or consideration of the application given by the
25 board, under the Sunshine Act.

26 (5) Written notice of the board's action shall be sent
27 to the applicant, the Department of Education and the appeal
28 board. If the application is denied, the reasons for the
29 denial including a description of deficiencies in the
30 application shall be clearly stated in the notice sent by the

1 local board of school directors to the charter school
2 applicant.

3 (f) Appeal of a denied application.--At the option of the
4 charter school applicant a denied application may be revised and
5 resubmitted to the local board of school directors, or the
6 decision of the local board of school directors may be appealed
7 to the appeal board. When an application is revised and
8 resubmitted to the local board of school directors, the board
9 may schedule additional public hearings on the revised
10 application. The board shall consider the revised and
11 resubmitted application at the first board meeting occurring at
12 least 45 days after receipt of the revised application by the
13 board. For a revised application resubmitted for the 1997-1998
14 school year, the board shall consider the application at the
15 first board meeting occurring at least 30 days after its
16 receipt. The board shall provide notice of consideration of the
17 revised application under the Sunshine Act.

18 (g) Effect of inaction.--Notwithstanding the provisions of
19 subsection (e)(5), failure by the local board of directors to
20 hold a public hearing and to grant or deny the application for a
21 charter school within the time periods specified in subsections
22 (d), (e) and (f) shall permit the applicant for a charter to
23 file its application as an appeal to the State Charter School
24 Appeal Board. In such case, the appeal board shall review the
25 application and make a decision to grant or deny a charter based
26 on the criteria established in subsection (e)(2).

27 (h) Review of revocation or nonrenewal.--In the case of a
28 review by the appeal board of an application that is revoked or
29 is not renewed the appeal board shall make its decision based on
30 the criteria established in subsection (e)(2). A decision by the

1 appeal board under this subsection or subsection (g) to grant,
2 to renew or not to revoke a charter shall serve as a requirement
3 for the local board of directors of a school entity or school
4 entities, as appropriate, to sign the written charter of the
5 charter school as provided for in section 307. Should the local
6 board of directors fail to grant the application and sign the
7 charter within ten days of notice of reversal of the decision of
8 the local board of directors, the charter shall be deemed to be
9 approved and shall be signed by the chairman of the appeal
10 board.

11 (i) Appeal to State Charter School Appeal Board.--

12 (1) The appeal board shall have the exclusive review of
13 an appeal by a charter school applicant, or by the board of
14 trustees of an existing charter school, of a decision made by
15 a local board of directors not to grant, not to renew or to
16 revoke a charter as provided in this section. In any appeal
17 the decision made by the local board of directors shall be
18 reviewed by the appeal board on a record certified by the
19 local board of directors. The appeal board shall have the
20 discretion to allow the local board of directors and the
21 charter school applicant to supplement the record if the
22 supplemental information was previously unavailable. The
23 appeal shall be filed within 30 days of the receipt of the
24 decision of the local board of directors.

25 (2) Not later than 30 days after receipt of the appeal,
26 the appeal board shall provide reasonable written notice of
27 and meet to officially review the certified record.

28 (3) Not later than 60 days following the review
29 conducted pursuant to paragraph (2), the appeal board shall
30 issue a written decision affirming or denying the appeal. If

1 the appeal board has affirmed the decision of the local board
2 of directors, notice shall be provided to both parties.

3 (4) If the appeal board determines that the charter
4 should not be revoked or should be renewed, the appeal board
5 shall order the local board of directors to rescind its
6 revocation or nonrenewal decision.

7 (5) A decision of the appeal board to reverse the
8 decision of the local board of directors shall serve as a
9 requirement for the local board of directors of a school
10 entity or school entities, as appropriate, to grant the
11 application and sign the written charter of the charter
12 school as provided for in section 303. Should the local board
13 of directors fail to grant the application and sign the
14 charter within ten days of notice of the reversal of the
15 decision of the local board of directors, the charter shall
16 be deemed to be approved and shall be signed by the chairman
17 of the appeal board.

18 (6) All decisions of the appeal board shall be subject
19 to appellate review by the Commonwealth Court.

20 Section 305. Regional charter school.

21 (a) Establishment.--A regional charter school may be
22 established by an individual, one or more teachers who will
23 teach at the proposed charter school; parents or guardians of
24 students who will attend the charter school; any nonsectarian
25 college, university or museum located in this Commonwealth; any
26 nonsectarian corporation not-for-profit, as defined in 15
27 Pa.C.S. (relating to corporations and unincorporated
28 associations); any corporation; association; partnership; or any
29 combination thereof. A regional charter school may be
30 established by creating a new school or by converting an

1 existing public school or a portion of an existing public
2 school. Conversion of an existing public school to a regional
3 charter school shall be accomplished in accordance with section
4 301(b). No regional charter school shall be established or
5 funded by and no charter shall be granted to any sectarian
6 school, institution or other entity.

7 (b) Consideration and review.--The boards of school
8 directors of one or more school entities may act jointly to
9 receive and consider an application for a regional charter
10 school, except that any action to approve an application for a
11 charter or to sign a written charter of an applicant shall
12 require an affirmative vote of a majority of all the directors
13 of each of the school entities involved. The applicant shall
14 apply for a charter to the board of directors of any school
15 entity in which the charter school will be located.

16 (c) Application of act.--The provisions of this act as it
17 pertains to charter schools and the powers and duties of the
18 local board of school directors of a school entity and the
19 appeal board shall apply to regional charter schools, except as
20 provided in subsections (a) and (b) or as otherwise clearly
21 stated in this act.

22 Section 306. Contents of application.

23 An application to establish a charter school shall include
24 all of the following information:

- 25 (1) The identification of the charter applicant.
- 26 (2) The name of the proposed charter school.
- 27 (3) The grade or age levels served by the school.
- 28 (4) The proposed governance structure of the charter
29 school, including a description and method for the
30 appointment or election of members of the board of trustees.

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

4 (6) The admission policy and criteria for evaluating the
5 admission of students which shall comply with the
6 requirements of section 310.

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

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

12 (9) The financial plan for the charter school and the
13 provisions which will be made for auditing the school under
14 section 437 of the Public School Code.

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

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

21 (12) Information on the proposed school calendar for the
22 charter school, including the length of the school day and
23 school year consistent with the provisions of section 1502 of
24 the Public School Code.

25 (13) The proposed faculty and a professional development
26 plan for the faculty of a charter school.

27 (14) Whether any agreements have been entered into or
28 plans developed with the local school district regarding
29 participation of the charter school students in
30 extracurricular activities within the school district.

1 (15) A report of criminal history record, pursuant to
2 section 111 of the Public School Code, for all individuals
3 seeking the charter who shall have direct contact with
4 students.

5 (16) An official clearance statement regarding child
6 injury or abuse from the Department of Public Welfare as
7 required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to
8 background checks for employment in schools) for all
9 individuals who shall have direct contact with students.

10 (17) How the charter school will provide adequate
11 liability and other appropriate insurance for the charter
12 school, its employees and the board of trustees of the
13 charter school.

14 Section 307. Term and form of charter.

15 Upon approval of a charter application under section 304, a
16 written charter shall be developed which shall contain the
17 provisions of the charter application and which shall be signed
18 by the local board of school directors of a school entity, by
19 the local boards of school directors of a school entity in the
20 case of a regional charter school, or by the chairman of the
21 State Charter School Appeal Board pursuant to section 304(i)(5)
22 and the board of trustees of the charter school. This written
23 charter, when duly signed by the local board of school directors
24 of a school entity, or by the local boards of school directors
25 of a school entity in the case of a regional charter school, and
26 the charter school's board of trustees shall act as legal
27 authorization for the establishment of a charter school. This
28 written charter shall be legally binding on both the local board
29 of school directors of a school entity and the charter school's
30 board of trustees. The charter shall be for a period of no less

1 than three, nor more than five years, and may be renewed for
2 five-year periods upon reauthorization by the local board of
3 school directors of a school entity or the appeal board. A
4 charter will be granted only for a school organized as a public,
5 nonprofit corporation.

6 Section 308. State Charter School Appeal Board.

7 (a) Appointment and composition.--The State Charter School
8 Appeal Board shall consist of ~~seven~~ THE SECRETARY OF EDUCATION <—
9 AND SIX members who shall be appointed by the Governor BY AND <—
10 WITH THE CONSENT OF A MAJORITY OF ALL THE MEMBERS OF THE SENATE.
11 The Governor shall select the chairman of the appeal board TO <—
12 SERVE AT THE PLEASURE OF THE GOVERNOR. The members shall
13 include:

14 ~~(1) The Secretary of Education.~~ <—

15 ~~(2)~~ (1) A parent of a school-aged child.

16 ~~(3)~~ (2) A school board member. <—

17 ~~(4)~~ (3) A certified teacher actively employed in a <—
18 public school.

19 ~~(5)~~ (4) A faculty member or administrative employee of <—
20 an institution of higher education.

21 ~~(6)~~ (5) A member of the business community. <—

22 ~~(7)~~ (6) A member of the State Board of Education. <—

23 THE TERM OF OFFICE OF MEMBERS OF THE APPEAL BOARD, OTHER THAN <—
24 THE SECRETARY, SHALL BE FOR A PERIOD OF FOUR YEARS OR UNTIL A
25 SUCCESSOR IS APPOINTED AND QUALIFIED EXCEPT THAT OF THE INITIAL
26 APPOINTEES, THE GOVERNOR SHALL DESIGNATE TWO MEMBERS TO SERVE
27 TERMS OF TWO YEARS, TWO MEMBERS TO SERVE TERMS OF THREE YEARS
28 AND TWO MEMBERS TO SERVE TERMS OF FOUR YEARS. ANY APPOINTMENT TO
29 FILL ANY VACANCY SHALL BE FOR THE PERIOD OF THE UNEXPIRED TERM
30 OR UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED.

1 (b) Meetings, quorum, etc.--The appeal board shall meet as
2 needed to fulfill the purposes provided in this subsection. A
3 majority of the members of the appeal board shall constitute a
4 quorum, and a majority of the members of the appeal board shall
5 have authority to act upon any matter properly before the appeal
6 board. The appeal board is authorized to establish rules for its
7 operation.

8 (c) Expenses.--The members shall receive no payment for
9 their services. Members who are not employees of State
10 government shall be reimbursed for expenses incurred in the
11 course of their official duties. A member who is employed by a
12 private employer shall be reimbursed by the Department of
13 Education, from funds appropriated for the general government
14 operations of the department, for any income lost as a result of
15 attendance at appeal board meetings or performance of other
16 official appeal board duties upon appropriate documentation as
17 required by the department.

18 (d) Assistance.--The department shall provide assistance and
19 staffing for the appeal board. The Governor, through his General
20 Counsel, shall provide such legal advice and assistance as the
21 appeal board may require.

22 (e) Sunshine provisions.--Meetings of the appeal board shall
23 be conducted under the act of July 3, 1986 (P.L.388, No.84),
24 known as the Sunshine Act. Documents of the appeal board shall
25 be subject to the act of June 21, 1957 (P.L.390, No.212),
26 referred to as the Right-to-Know Law.

27 Section 309. Facilities.

28 (a) Location.--A charter school may be located in an
29 existing public school building, in a part of an existing public
30 school building, in space provided on a privately owned site, in

1 a public building or in any other suitable location.

2 (b) Exemption from regulations.--The charter school facility
3 shall be exempt from public school facility regulations, except
4 those pertaining to the health or safety of the pupils.

5 (c) Construction with public funds prohibited.--A charter
6 school shall not construct a facility with public funds RECEIVED <—
7 FROM THE DEPARTMENT OR A LOCAL SCHOOL DISTRICT.

8 Section 310. Enrollment.

9 (a) Admission.--All resident children in this Commonwealth
10 qualify for admission to a charter school within the provisions
11 of subsection (b). If more students apply to the charter school
12 than the number of attendance slots available in the school,
13 then students must be selected on a random basis from a pool of
14 qualified applicants meeting the established eligibility
15 criteria and submitting an application by the deadline
16 established by the charter school, except that the charter
17 school may give preference in enrollment to a child of a parent
18 who has actively participated in the development of the charter
19 school and to siblings of students presently enrolled in the
20 charter school. First preference shall be given to students who
21 reside in the entity or entities.

22 (b) Discrimination prohibited.--

23 (1) A charter school shall not discriminate in its
24 admission policies or practices on the basis of intellectual
25 ability, except as provided in paragraph (2), or athletic
26 ability, measures of achievement or aptitude, status as a
27 person with a disability, proficiency in the English language
28 or any other basis that would be illegal if used by a school
29 district.

30 (2) A charter school may limit admission to a particular

1 grade level or areas of concentration of the school such as
2 mathematics, science or the arts. A charter school may
3 establish reasonable criteria to evaluate prospective
4 students which shall be outlined in the school's charter.

5 (c) Nonresident students.--If available classroom space
6 permits, a charter school may enroll nonresident students on a
7 space-available basis, and the student's district of residence
8 shall permit the student to attend the charter school. The terms
9 and conditions of the enrollment shall be outlined in the
10 school's charter.

11 Section 311. School staff.

12 (a) Staff.--The board of trustees shall determine the level
13 of compensation and all terms and conditions of employment of
14 the staff, except as may otherwise be provided in this act. At
15 least 75% of the professional staff members of a charter school
16 shall hold appropriate State certification. Employees of a
17 charter school may organize under the act of July 23, 1970
18 (P.L.563, No.195), known as the Public Employee Relations Act.
19 The board of trustees of a charter school shall be considered an
20 employer for the purposes of Article XI-A of the Public School
21 Code. Upon formation of one or more collective bargaining units
22 at the school, the board of trustees shall bargain with the
23 employees based on the provisions of this act, the Public
24 Employee Relations Act and Article XI-A of the Public School
25 Code. Collective bargaining units at a charter school shall be
26 separate from any collective bargaining unit of the school
27 district in which the charter school is located and shall be
28 separate from any other collective bargaining unit. A charter
29 school shall be considered a school entity as provided for in
30 section 1161-A of the Public School Code for purpose of the

1 secretary seeking an injunction requiring the charter school to
2 meet the minimum requirements for instruction as provided for in
3 this act.

4 (b) Retirement benefits.--All employees of a charter school
5 shall be enrolled in the Public School Employee's Retirement
6 System in the same manner as set forth in 24 Pa.C.S. § 8301(a)
7 (relating to mandatory and optional membership) unless at the
8 time of the application for the charter school the sponsoring
9 entity or the board of trustees of the charter school has a
10 retirement program which covers the employees or the employee is
11 currently enrolled in another retirement program. The
12 Commonwealth shall make contributions on behalf of charter
13 school employees and the charter school shall be considered a
14 school entity and shall make payments by employers and payments
15 on account of Social Security as established under 24 Pa.C.S.
16 Pt. IV (relating to retirement for school employees). For
17 purposes of payments by employers a charter school shall be
18 considered a school entity under 24 Pa.C.S. § 8329(a)(1)
19 (relating to payments on account of social security deductions
20 from appropriations). The market value/income aid ratio used in
21 calculating payments as prescribed in this subsection shall be
22 the market value/income aid ratio for the school district in
23 which the charter school is located or, in the case of a
24 regional charter school, shall be a composite market
25 value/income aid ratio for the participating school entities as
26 determined by the department. Except as otherwise provided,
27 employees of a charter school shall make regular member
28 contributions as required for active members under 24 Pa.C.S.
29 Pt. IV. If the employees of the charter school participate in
30 another retirement plan, then those employees shall have no

1 concurrent claim on the benefits provided to public school
2 employees under 24 Pa.C.S. Pt. IV. For purposes of this
3 subsection, a charter school shall be deemed to be a "public
4 school" as defined in 24 Pa.C.S. § 8102 (relating to
5 definitions).

6 (c) Health benefits.--Every employee of a charter school
7 shall be provided the same health care benefits as the employee
8 would be provided if he or she were an employee of the local
9 district or school entity. The local board of school directors
10 may require the charter school to provide the same terms and
11 conditions with regard to health insurance as the collective
12 bargaining agreement of the school district to include employee
13 contributions to the district's health benefits plan. The
14 charter school shall make any required employer's contribution
15 to the district's health plan to an insurer, a local board of
16 school directors or a contractual representative of school
17 employees, whichever is appropriate to provide the required
18 coverage.

19 (d) Leave of absence for public school employees.--Any
20 public school employee of a school entity may request a leave of
21 absence for up to five years in order to work in a charter
22 school located in the district of employment or in a regional
23 charter school in which the employing school district is a
24 participant. Approval for a leave shall not be unreasonably
25 withheld.

26 (e) Tenure.--Temporary professional employees on leave from
27 a school district may accrue tenure in the noncharter public
28 school system at the discretion of the local board of school
29 directors, the same as they would under Article XI of the Public
30 School Code if they had continued to be employed by that

1 district. Professional employees on leave from a school district
2 shall retain their tenure rights, as defined in Article XI of
3 the Public School Code, in the school entity from which they
4 came. No temporary professional employee or professional
5 employee shall have tenure rights as against a charter school.
6 Both temporary professional employees and professional employees
7 shall continue to accrue seniority in the school entity from
8 which they came if they return to that school entity when the
9 leave ends.

10 (f) Certification.--A professional employee who holds a
11 first level teaching or administrative certificate may, at his
12 or her option, have the time completed in satisfactory service
13 in a charter school applied to the length of service
14 requirements for the next level of certification.

15 (g) Return to public school employment.--

16 (1) Any temporary professional employee or professional
17 employee who leaves employment at a charter school shall have
18 the right to return to a comparable position for which the
19 person is properly certified in the school entity which
20 granted the leave of absence. In the case where a teacher has
21 been dismissed by the charter school, the school entity which
22 granted the leave of absence is to be provided by the charter
23 school with the reasons for such dismissal at the time it
24 occurs, A LIST OF ANY WITNESSES WHO WERE RELIED ON BY THE <—
25 CHARTER SCHOOL IN MOVING FOR DISMISSAL, A DESCRIPTION OF AND
26 ACCESS TO ANY PHYSICAL EVIDENCE USED BY THE CHARTER SCHOOL IN
27 MOVING FOR DISMISSAL AND A COPY OF ANY RECORD DEVELOPED AT
28 ANY DISMISSAL PROCEEDING CONDUCTED BY THE CHARTER SCHOOL. THE
29 RECORD OF ANY SUCH HEARING MAY BE ADMISSIBLE IN A HEARING
30 BEFORE THE SCHOOL ENTITY WHICH GRANTED THE LEAVE OF ABSENCE.

1 Nothing in this section shall affect the authority of the
2 board of school directors to initiate proceedings under
3 Chapter 11 of the Public School Code if the board determines
4 that occurrences at the charter school leading to dismissal
5 of a teacher constitute adequate and independent grounds for
6 discipline under section 1122 of the Public School Code.

7 (2) No temporary employee or professional employee who
8 is leaving employment at a charter school shall be returned
9 to a position in the public school district which granted his
10 leave of absence, until such public school district is in
11 receipt of a current criminal history record under section
12 111 of the Public School Code, and the official clearance
13 statement regarding child injury or abuse from the Department
14 of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2
15 (relating to background checks for employment in schools).

16 (h) Report of criminal history records.--All individuals who
17 shall have direct contact with students shall be required to
18 submit a report of criminal history record information as
19 provided for in section 111 of the Public School Code, prior to
20 accepting a position with the charter school. This subsection
21 shall also apply to any individual who volunteers to work on a
22 full-time or part-time basis at the charter school.

23 (i) Child abuse clearance statement.--All applicants for a
24 position as a school employee shall be required to submit the
25 official clearance statement regarding child injury or abuse
26 from the Department of Public Welfare as required by 23 Pa.C.S.
27 Ch. 63 Subch. C.2.

28 Section 312. Funding for charter schools.

29 (a) Calculation.--Funding for a charter school shall be
30 provided in the following manner:

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

3 (2) For nonspecial education students, the charter
4 school shall receive for each student enrolled no less than
5 the budgeted total expenditure per average daily membership
6 of the prior school year, as defined in section 2501(20) of
7 the Public School Code, minus the budgeted expenditures of
8 the district of residence for nonpublic school programs;
9 adult education programs; community/junior college programs;
10 student transportation services; for special education
11 pursuant to Article XV of the Public School Code; facilities
12 acquisition, construction and improvement services and other
13 financing uses, including debt service and fund transfers as
14 provided in the Manual of Accounting and Related Financial
15 Procedures for Pennsylvania School Systems established by the
16 department.

17 (3) For special education students, the charter school
18 shall receive for each student enrolled the same funding as
19 for each nonspecial education student as provided in
20 paragraph (2) plus an additional amount determined by
21 dividing the district of residence's total special education
22 expenditure by the product of multiplying the combined
23 percentage of section 2509.5(k) of the Public School Code
24 times the district of residence's total average daily
25 membership for the prior school year.

26 (4) A charter school may request the intermediate unit
27 in which the charter school is located to provide services to
28 assist the charter school to address the specific needs of
29 exceptional students. The intermediate unit shall assist the
30 charter school and bill the charter school for the services.

1 The intermediate unit may not charge the charter school more
2 for any service than it charges the constituent districts of
3 the intermediate unit.

4 (5) Payments shall be made to the charter school in 12
5 equal monthly payments, by the fifth day of each month,
6 within the operating school year. A student enrolled in a
7 charter school shall be included in the average daily
8 membership of the student's district of residence for the
9 purpose of providing basic education funding payments and
10 special education funding pursuant to Article XXV of the
11 Public School Code. If a school district fails to make a
12 payment to a charter school as prescribed in this paragraph
13 the secretary shall deduct the amount, as documented by the
14 charter school, from any and all State payments made to the
15 district after receipt of documentation from the charter
16 school.

17 (b) Temporary financial assistance.--The Commonwealth shall
18 provide temporary financial assistance to a school district
19 which experiences an increase of 2% or more in its enrollment
20 for the current school year due to the transfer of students
21 formerly enrolled in a nonpublic school to a charter school in
22 order to offset the additional costs directly related to the
23 transfer of said students from a private school to a charter
24 school who otherwise would have remained enrolled in a private
25 school. The department shall calculate the additional costs to
26 the school district, taking into consideration any savings
27 realized by the school district due to the establishment of the
28 charter school. The department shall determine the amount of
29 temporary financial assistance so as to hold the school district
30 harmless from costs incurred due to the transfer of students

1 from a private school to a charter school who would have
2 otherwise remained enrolled in a private school. This subsection
3 shall expire in five years. In no event shall the assistance be
4 greater than 90% of the additional costs.

5 (c) Property rights.--It shall be lawful for any charter
6 school to receive, hold, manage and use, absolutely or in trust,
7 any devise, bequest, grant, endowment, gift or donation of any
8 property, real or personal and/or mixed, which shall be made to
9 the charter school for any of the purposes of this act.

10 (d) Solicitation of gifts prohibited.--It shall be unlawful
11 for any trustee of a charter school, or any board of trustees of
12 a charter school, or any other person affiliated in any way with
13 a charter school to demand or request, directly or indirectly,
14 any gift, donation or contribution of any kind from any parent,
15 teacher, employee or any other person affiliated with the
16 charter school as a condition for employment or enrollment
17 and/or continued attendance of any pupil. Any donation, gift or
18 contribution received by a charter school shall be given freely
19 and voluntarily.

20 Section 313. Transportation.

21 Students who reside in the school district in which the
22 charter school is located, or who are residents of a school
23 district which is part of a regional charter school, shall be
24 provided transportation to the charter school on the same terms
25 and conditions as transportation is provided to students
26 attending the schools of the district. Nonresident students
27 shall be provided transportation under section 1361 of the
28 Public School Code. Districts providing transportation to a
29 charter school outside the district shall be eligible for
30 payments under section 2509.3 of the Public School Code for each

1 public school student transported.

2 Section 314. Tort liability.

3 For purposes of tort liability, employees of the charter
4 school shall be considered public employees and the board of
5 trustees shall be considered the public employer in the same
6 manner as political subdivisions and local agencies. The board
7 of trustees of a charter school and the charter school shall be
8 solely liable for any and all damages of any kind resulting from
9 any legal challenge involving the operation of a charter school.
10 Notwithstanding this requirement, the local board of directors
11 of a school entity shall not be held liable for any activity or
12 operation related to the program of the charter school.

13 Section 315. Annual reports and assessments.

14 (a) Annual assessment.--The local board of school directors
15 shall annually assess whether each charter school is meeting the
16 goals of its charter and shall conduct a comprehensive review
17 prior to granting a five-year renewal of the charter. The local
18 board of school directors shall have ongoing access to the
19 records and facilities of the charter school to ensure that the
20 charter school is in compliance with its charter and this act
21 and that requirements for testing, civil rights and student
22 health and safety are being met.

23 (b) Annual report by charter school.--In order to facilitate
24 the local board's review and secretary's report, each charter
25 school shall submit an annual report no later than August 1 of
26 each year to the local board of school directors and the
27 secretary in the form prescribed by the secretary.

28 (c) Report and evaluation.--Five years following the
29 effective date of this act, the secretary shall contract with an
30 independent professional consultant with expertise in public and

1 private education. The consultant shall receive input from
2 members of the educational community and the public on the
3 charter school program. The consultant shall submit a report to
4 the secretary, the Governor and the General Assembly and an
5 evaluation of the charter school program which shall include a
6 recommendation on the advisability of the continuation,
7 modification, expansion or termination of the program and any
8 recommendations for changes in the structure of the program.

9 Section 316. Causes for nonrenewal or termination.

10 (a) General.--During the term of the charter or at the end
11 of the term of the charter, the local board of school directors
12 may choose to revoke or not to renew the charter based on any of
13 the following:

14 (1) One or more material violations of any of the
15 conditions, standards or procedures contained in the written
16 charter signed pursuant to section 307.

17 (2) Failure to meet the requirements for student
18 performance set forth in 22 Pa.Code Ch. 5 (relating to
19 curriculum) or subsequent regulations promulgated to replace
20 22 Pa.Code Ch. 5 or failure to meet any performance standard
21 set forth in the written charter signed pursuant to section
22 303.

23 (3) Failure to meet generally accepted standards of
24 fiscal management or audit requirements.

25 (4) Violation of provisions of this act.

26 (5) Violation of any provision of law from which the
27 charter school has not been exempted, INCLUDING FEDERAL LAWS <—
28 AND REGULATIONS GOVERNING CHILDREN WITH DISABILITIES.

29 (6) The charter school has been convicted of fraud.

30 (b) Board members.--A member of the board of trustees who is

1 convicted of a felony or any crime involving moral turpitude
2 shall be immediately disqualified from serving on the board of
3 trustees.

4 (c) Notice of revocation or nonrenewal.--Any notice of
5 revocation or nonrenewal of a charter given by the local board
6 of school directors of a school entity shall state the grounds
7 for such action with reasonable specificity and give reasonable
8 notice to the governing board of the charter school of the date
9 on which a public hearing concerning the revocation or
10 nonrenewal will be held. The local board of school directors
11 shall conduct such hearing, present evidence in support of the
12 grounds for revocation or nonrenewal stated in its notice and
13 give the charter school reasonable opportunity to offer
14 testimony before taking final action. Formal action revoking or
15 not renewing a charter shall be taken by the local board of
16 school directors at a public meeting pursuant to the act of July
17 3, 1986 (P.L.388, No.84), known as the Sunshine Act, after the
18 public has had 30 days to provide comments to the board. All
19 proceedings of the local board pursuant to this subsection shall
20 be subject to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and
21 procedure of local agencies). Except as provided in subsection
22 (d), the decision of the local board shall not be subject to 2
23 Pa.C.S. Ch. 7 Subch. B (relating to judicial review of local
24 agency action).

25 (d) Appeal.--The charter school may appeal the decision of
26 the local board of school directors to revoke or not renew the
27 charter to the State charter school appeal board. The charter
28 school's appeal board shall review the record and shall have the
29 discretion to supplement the record. The proceedings of the
30 appeal board shall be conducted pursuant to the procedures and

1 standards set forth in 2 Pa.C.S. § 754 (relating to disposition
2 of appeal). The appeal board may consider the charter school
3 plan, annual reports, student performance and employee and
4 community support for the charter school in addition to the
5 record.

6 (e) Exception.--Except as provided in subsection (f), the
7 charter shall remain in effect until final disposition by the
8 appeal board.

9 (f) Emergencies.--In cases where the health or safety of the
10 school's pupils and/or staff is at serious risk, the local board
11 of school directors may take immediate action to revoke a
12 charter.

13 (g) Court.--All decisions of the charter school appeal board
14 shall be subject to appellate review by the Commonwealth Court.

15 (h) Dissolution.--When a charter is revoked or is not
16 renewed, the charter school shall be dissolved. After the
17 disposition of any liabilities and obligations of the charter
18 school, any remaining assets of the charter school shall be
19 distributed on a proportional basis to the school entities with
20 students enrolled in the charter school for the last full or
21 partial school year of the charter school.

22 (i) Disposition of pupils.--When a charter is revoked or is
23 not renewed, a student who attended the charter school shall
24 apply to another public school in the student's school district
25 of residence. Normal application deadlines will be disregarded
26 under these circumstances. All student records maintained by the
27 charter school shall be forwarded to the student's district of
28 residence.

29 Section 317. Desegregation orders.

30 The local board of school directors of a school district

1 which is operating under a desegregation plan approved by the
2 Pennsylvania Human Relations Commission or a desegregation order
3 by a Federal or State court shall not approve a charter school
4 application if such charter school would place the school
5 district in noncompliance with its desegregation order.

6 Section 318. Charter school grants.

7 (a) Allocation.--The secretary shall allocate grants for
8 planning and start-up funding to eligible applicants under
9 section 304 from funds appropriated for this purpose.

10 (1) Planning grant applications shall be filed on a form
11 and by a date determined by the secretary. The amount of a
12 grant may vary depending on the size and scope of the
13 planning needed by the applicant. The application shall
14 address the manner in which the applicant plans to address
15 the criteria established for charter schools in sections 302
16 and 304.

17 (2) Start-up funding grant applications shall be filed
18 on a form and by a date determined by the secretary. The
19 applicant for the charter school shall submit its application
20 for a charter when applying for the grant. A grant for start-
21 up funding may vary depending on the size and special
22 characteristics of the charter school. A start-up grant may
23 be used to meet the expenses of the charter school as
24 established in their charter and as authorized in the
25 provision of this act.

26 (b) Informing local board of school directors.--The
27 applicant shall include a copy of a letter informing the local
28 board of school directors of the school entity of the
29 application for the planning grant if the location of the
30 proposed charter school is known. An applicant receiving a

1 start-up funding grant shall notify the school entity or
2 entities signing the charter of receipt of this grant.

3 Section 319. Provisions applicable to charter schools.

4 (a) Statutory provisions.--Charter schools shall be subject
5 to the following:

6 Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443,
7 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755,
8 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1310, 1317,
9 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517,
10 1518, 1521, 1523, 1547, 2014-A, Article XIII-A and Article XIV
11 of the act of March 10, 1949 (P.L.30, No.14), known as the
12 Public School Code of 1949.

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

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

19 Section 4 of the act of January 25, 1966 (1965 P.L.1546,
20 No.541), entitled "An act providing scholarships and providing
21 funds to secure Federal funds for qualified students of the
22 Commonwealth of Pennsylvania who need financial assistance to
23 attend postsecondary institutions of higher learning, making an
24 appropriation, and providing for the administration of this
25 act."

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

30 Act of December 15, 1986 (P.L.1595, No.175), known as the

1 Antihazing Law.

2 (b) Regulations.--Charter schools shall be subject to the
3 following provisions of 22 Pa. Code:

4 SECTION 5.216 (RELATING TO ESOL) <—

5 Section 5.4 (relating to general policies)

6 Chapter 11 (relating to pupil attendance)

7 Chapter 12 (relating to students)

8 Section 32.3 (relating to assurances)

9 Section ~~131.3~~ 121.3 (relating to discrimination prohibited) <—

10 Section 235.4 (relating to practices)

11 Section 235.8 (relating to civil rights)

12 ~~(c) Authority of secretary. The secretary may promulgate~~ <—

13 ~~additional regulations relating to charter schools.~~

14 (C) DUTIES AND AUTHORITY OF SECRETARY.-- <—

15 (1) THE SECRETARY MAY PROMULGATE ADDITIONAL REGULATIONS
16 RELATING TO CHARTER SCHOOLS.

17 (2) THE SECRETARY SHALL HAVE THE AUTHORITY AND THE
18 RESPONSIBILITY TO ENSURE THAT CHARTER SCHOOLS COMPLY WITH
19 FEDERAL LAWS AND REGULATIONS GOVERNING CHILDREN WITH
20 DISABILITIES. THE SECRETARY SHALL PROMULGATE REGULATIONS TO
21 IMPLEMENT THIS PROVISION.

22 SECTION 320. FEDERAL FUNDING.

23 THIS ACT AUTHORIZES THE DEPARTMENT TO APPLY FOR, RECEIVE AND
24 DISBURSE FUNDS FOR CHARTER SCHOOL GRANTS UNDER THE ACT OF
25 OCTOBER 20, 1994 (P.L.103-382, 108 STAT. 3518), KNOWN AS THE
26 IMPROVING AMERICA'S SCHOOLS ACT OF 1994.

27 CHAPTER 9

28 MISCELLANEOUS PROVISIONS

29 Section 901. Repeals.

30 All acts and parts of acts are repealed insofar as they are

- 1 inconsistent with this act.
- 2 Section 902. Effective date.
- 3 This act shall take effect immediately.