

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2364 Session of 2012

INTRODUCED BY FLECK, O'NEILL, DeLUCA, REESE, BAKER, BARBIN, BARRAR, CAUSER, DAVIS, EMRICK, J. EVANS, EVERETT, GEIST, GINGRICH, HALUSKA, HESS, HUTCHINSON, M. K. KELLER, LONGIETTI, MICOZZIE, MILLER, MOUL, MULLERY, MUNDY, PASHINSKI, PEIFER, PICKETT, REED, ROEBUCK, SAYLOR, SCAVELLO, SCHMOTZER, SONNEY, STERN, STURLA, SWANGER, VULAKOVICH, KORTZ AND HARHART, JUNE 5, 2012

REFERRED TO COMMITTEE ON EDUCATION, JUNE 5, 2012

AN ACT

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

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

15 Section 1. The definitions of "chief executive officer" and
 16 "local board of school directors" in section 1703-A of the act
 17 of March 10, 1949 (P.L.30, No.14), known as the Public School
 18 Code of 1949, amended June 29, 2002 (P.L.524, No.88), are
 19 amended and the section is amended by adding definitions to
 20 read:

1 Section 1703-A. Definitions.--As used in this article,
2 "Administrator" shall include the chief administrator of a
3 charter school or cyber charter school and all other employes of
4 a charter school or cyber charter school who by virtue of their
5 positions exercise management or operational oversight
6 responsibilities.

7 * * *

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

13 "Charter school fund balance limit" shall mean the amount
14 determined under section 1733-A.

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

19 * * *

20 "Cyber charter school fund balance limit" shall mean the
21 amount determined under section 1743-A.

22 * * *

23 "Financial relationship" shall mean any formal or informal
24 arrangement pursuant to which a charter is obligated to make
25 payment or in fact does make payment to an individual, group of
26 individuals or any entity.

27 "Immediate family member" shall mean a spouse, parent,
28 brother, sister or child.

29 "Local [boards of school directors] school board" shall mean
30 the board of directors of a school district in which a proposed

1 or an approved charter school is located. The term shall include
2 a board of control established under Article XVII-B, a special
3 board of control established under section 692 or a school
4 reform commission established under section 696.

5 Section 1.1. Section 1715-A of the act is amended by adding
6 a clause to read:

7 Section 1715-A. Charter School Requirements.--Charter
8 schools shall be required to comply with the following
9 provisions:

10 * * *

11 (13) (i) For the 2012-2013 school year and each school year
12 thereafter, a charter school may not accumulate an unassigned
13 fund balance greater than the charter school fund balance limit,
14 which shall be determined as follows:

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

28 (ii) Any unassigned fund balance in place on June 30, 2012,
29 that exceeds the charter school fund balance limit shall be
30 refunded on a per student pro rata basis within ninety (90) days

1 of the effective date of this subclause to all school districts
2 that made payments under section 1725-A in the 2010-2011 and
3 2011-2012 school years. The funds may not be used to pay bonuses
4 to any administrator, board of trustees member, employe, staff
5 or contractor or be transferred to a charter school foundation,
6 closely related business entity or educational service provider.

7 (iii) For the 2012-2013 school year and each school year
8 thereafter, any unassigned fund balance in excess of the charter
9 school fund balance limit shall be refunded on a per student pro
10 rata basis to all school districts that made payments under
11 section 1725-A in the prior school year.

12 (iv) By August 15, 2012, and August 15 of each year
13 thereafter, each charter school shall provide the department
14 with information certifying compliance with this clause. The
15 information shall be provided in a form and manner prescribed by
16 the department and shall include information on the charter
17 school's estimated ending unassigned fund balance expressed as a
18 dollar amount and as a percentage of the charter school's total
19 budgeted expenditures for that school year.

20 (v) As used in this section, the term "unassigned fund
21 balance" shall mean that portion of the fund balance which
22 represents the part of the spendable fund balance that has not
23 been categorized as restricted, committed or assigned.

24 Section 2. Section 1716-A of the act, added June 19, 1997
25 (P.L.225, No.22), is amended to read:

26 Section 1716-A. [Powers of] Board of Trustees.--(a) The
27 board of trustees of a charter school or cyber charter school
28 shall have the authority to decide matters related to the
29 operation of the school, including, but not limited to,
30 budgeting, curriculum and operating procedures, subject to the

1 school's charter. [The board]

2 (a.1) The board of trustees shall have the authority to
3 employ, discharge and contract with necessary professional and
4 nonprofessional employes subject to the school's charter and the
5 provisions of this [article.] act. The board of trustees, with
6 written permission of the department, may contract with
7 educators who are not employes of the charter school or cyber
8 charter school to serve as teaching staff in specialized
9 subjects, except that the arrangements shall constitute no more
10 than five per centum of the teaching staff of the charter school
11 or cyber charter school.

12 (a.2) The board of trustees of a charter school or cyber
13 charter school shall have a minimum of five (5) voting members.
14 If a charter school or cyber charter school has fewer than five
15 (5) voting members serving on its board as of the effective date
16 of this subsection, the charter school or cyber charter school
17 shall have sixty (60) days to appoint additional members to the
18 board to meet the minimum requirements of this subsection.

19 (b) The following shall apply to all members of the board of
20 trustees of a charter school or cyber charter school:

21 (1) No member of a local school board [of school directors]
22 of a school entity shall serve on the board of trustees of a
23 charter school that is located in the member's district.

24 [(c) The board of trustees shall comply with the act of July
25 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."]

26 (2) No administrator or member of a local school board which
27 granted or renewed a charter shall serve on the board of
28 trustees of a charter school that is the subject of the granted
29 or renewed charter.

30 (3) No member of the board of trustees may be employed in

1 any capacity or have any financial relationship with the local
2 school board from which the charter school received its charter.
3 No member of the board of trustees of a charter school may be
4 employed in any capacity or have any financial relationship with
5 the board of trustees.

6 (4) No member of the board of trustees or a member of the
7 immediate family of the member of the board of trustees may:

8 (i) Be employed by the charter school or cyber charter
9 school or have a financial relationship with the charter school
10 or cyber charter school.

11 (ii) Be employed by any entity that has a financial
12 relationship with the charter school or cyber charter school or
13 any related or associated foundation unless the charter school
14 or cyber charter school complies with the requirements of 65
15 Pa.C.S. § 1103(f) (relating to restricted activities).

16 (5) No member of the board of trustees or a member of the
17 immediate family of the member of the board of trustees may be
18 employed by or have a financial relationship with an educational
19 service provider which is under contract with the charter school
20 or cyber charter school or any related or associated foundation.

21 (6) A member of the board of trustees must disqualify
22 himself and abstain from voting in a proceeding which
23 constitutes a conflict of interest or where the objectivity,
24 impartiality, integrity or independence of judgment of the
25 member may be reasonably questioned.

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

1 (8) No member of the board of trustees, employe or
2 administrator of a charter school or cyber charter school may
3 convert to his own use or use by way of investment or contract
4 any portion of the charter school or cyber charter school funds
5 or school property or deposit any of the funds of the charter
6 school or cyber charter school in any other name.

7 (9) No business entity, including for-profit and nonprofit
8 entities with which a member of the board of trustees, an
9 administrator or a member of the immediate family of the member
10 of the board of trustees or administrator is associated, may
11 contract with the charter school or cyber charter school unless
12 the charter school complies with the requirements of 65 Pa.C.S.
13 § 1103(f).

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

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

24 (12) No member of the board of trustees of a charter school
25 or cyber charter school may be employed by a charter school or
26 cyber charter school foundation or any entity affiliated with a
27 charter school or cyber charter school foundation. No immediate
28 family member of a member of the board of trustees may serve on,
29 receive compensation from or be employed by a charter school or
30 cyber charter school foundation or any entity affiliated with a

1 charter school or cyber charter school foundation.

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

5 (14) Any member of the board of trustees, elected officials,
6 administrators or their immediate families or staff determined
7 to have engaged in any conduct in contravention of this
8 subsection shall be immediately barred and prohibited from the
9 handling or receipt of funds, directly or indirectly, for a
10 period of five (5) consecutive years from the date of receipt,
11 expenditure, oversight or handling in any fashion, directly or
12 indirectly, of the funds of any school board, charter school,
13 cyber charter school, charter school or cyber charter school
14 foundation or appropriated by the Commonwealth, including awards
15 of contracts to third parties, hiring or retention of employes
16 or consultants and the purchase or acquisition of goods or
17 services.

18 (c.1) At least one member of the board of trustees of a
19 charter school or cyber charter school must be a parent of a
20 child attending that charter school or cyber charter school.

21 (d) The following shall apply:

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

28 (2) Before a trustee is removed under clause (1), the
29 trustee shall be provided with a written statement of the
30 reasons for removal and an opportunity to be heard in accordance

1 with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and
2 procedure of Commonwealth agencies) and 7 Subch. A (relating to
3 judicial review of Commonwealth agency action).

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

7 (4) Any person removed as a member of the board of trustees
8 of a charter school or cyber charter school under this
9 subsection shall not be eligible again to serve as a board
10 member or administrator for the period of five (5) years from
11 the date of removal.

12 Section 2.1. The act is amended by adding sections to read:

13 Section 1716.1-A. Duties of Administrators.--(a) The chief
14 administrator shall have the duty of the general supervision of
15 all business affairs of the charter school or cyber charter
16 school, subject to the direction of the board of trustees, and
17 the following duties subject to the direction of the board of
18 trustees:

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

22 (2) To attest in writing the executing of all deeds,
23 contracts, reports and other instruments that are to be executed
24 by the board.

25 (3) To furnish upon request all reports as required under
26 this act.

27 (4) Notwithstanding any other provisions of this act and
28 other laws, to serve as custodian of all records, offices and
29 property of the charter school or cyber charter school.

30 (5) To receive all funds and make payments from funds on

1 proper orders approved by the board of trustees.

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

5 (7) To perform other duties pertaining to the business of
6 the charter school or cyber charter school as required under
7 this act.

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

9 (1) No administrator may receive compensation from another
10 charter school, cyber charter school or from a company that
11 provides management or other services to another charter school
12 or cyber charter school.

13 (2) No administrator shall be employed by or have a
14 financial relationship with the local school boards from which
15 the charter school received its charter.

16 (2.1) No administrator of a cyber charter school may be
17 employed or have a financial relationship with the department.

18 (3) No immediate family member of an administrator may be
19 employed by or have any financial relationship with the charter
20 school or cyber charter school unless the charter school or
21 cyber charter school complies with the requirements of 65
22 Pa.C.S. § 1103(f) (relating to restricted activities).

23 (4) No administrator may be employed by or have a financial
24 relationship with an educational service provider without the
25 approval of the board of trustees.

26 (5) No immediate family member of an administrator shall be
27 employed by or have a financial relationship with an educational
28 service provider which is under contract with the charter school
29 or cyber charter school.

30 (6) An administrator shall be dismissed upon conviction for

1 an offense graded as a felony, an infamous crime or any crime
2 involving moral turpitude.

3 (7) No business with which an administrator, or a member of
4 the immediate family of the administrator, is associated may
5 contract with the charter school or cyber charter school unless
6 the charter school or cyber charter school complies with the
7 requirements of 65 Pa.C.S. § 1103(f).

8 (8) No administrator may commingle or convert to his own use
9 or use by way of investment any portion of the school funds or
10 school property or deposit any of the funds of the school in
11 accounts unrelated to the charter school or cyber charter
12 school.

13 (9) No administrator may act as an agent for any vendor for
14 school supplies, program materials or related educational
15 services with the local school board.

16 (10) No administrator may receive compensation from or be
17 employed by a charter school or cyber charter school foundation
18 or any entity affiliated with a charter school or cyber charter
19 school foundation. No immediate family member of an
20 administrator may serve on or be employed by a charter school or
21 cyber charter school foundation or any entity affiliated with a
22 charter school or cyber charter school foundation.

23 Section 1723.1-A. Notification.--(a) The following shall
24 apply:

25 (1) Within ten (10) days of the enrollment of a student to a
26 charter school, the parent or guardian and the charter school
27 shall notify the student's school district of residence of the
28 enrollment through the use of the notification form under
29 subsection (b) and provide a copy of documentation allowable
30 under Article XIII verifying the student's residence.

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

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

9 (ii) Within seven (7) days of notification under
10 subparagraph (i), the charter school shall review the
11 notification of nonresidence, respond to the school district and
12 provide a copy of the response to the department. If the charter
13 school agrees that a student is not a resident of the school
14 district, it shall determine the proper district of residence of
15 the student before requesting funds from another school
16 district.

17 (iii) Within seven (7) days of receipt of the response under
18 subparagraph (ii), the school district shall notify the charter
19 school that it agrees with the charter school's determination or
20 does not agree with the charter school's determination.

21 (iv) A school district that has notified the charter school
22 that it does not agree with the charter school's determination
23 under subparagraph (iii) shall appeal to the department for a
24 final determination.

25 (v) All decisions of the department regarding the school
26 district of residence of a student shall be subject to review by
27 the Commonwealth Court.

28 (vi) The department shall continue to make payments to a
29 charter school under section 1725-A during the time in which the
30 school district of residence of a student is in dispute.

1 (vii) If a final determination is made that a student is not
2 a resident of an appealing school district, the charter school
3 shall return all funds provided on behalf of that student to the
4 school district within thirty (30) days.

5 (b) The department shall develop a notification form for use
6 under subsection (a). The notification shall include:

7 (1) The name, home address and mailing address of the
8 student.

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

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

11 (4) The name and address of the charter school and the name
12 and telephone number of a contact person able to provide
13 information regarding the charter school.

14 (5) The signature of the parent or guardian and an
15 authorized representative of the charter school.

16 (6) The student's former school information, including the
17 name and address of the school district, the student's record of
18 attendance, the withdrawal date from the former school district,
19 if applicable, and the type of education services received, for
20 example, nonspecial education or special education.

21 (7) Verification of the student's residency, including the
22 parent or guardian's deed, lease, current utility bill, current
23 credit card bill, property tax bill, vehicle registration,
24 driver's license or Department of Transportation identification
25 card.

26 (b.1) A charter school shall submit to the student's school
27 district of residence verification of the student's residency
28 upon enrollment under subsection (a)(1) and every six (6) months
29 thereafter. A school district shall notify the department of all
30 resident students enrolled in charter schools for whom

1 enrollment notification and verification of residency have not
2 been received.

3 (c) The charter school and the parent or guardian of a
4 student enrolled in a charter school shall provide written
5 notification to the student's school district of residence
6 within ten (10) days following the withdrawal of a student from
7 the charter school.

8 (d) The following shall apply:

9 (1) Within ten (10) days of a change in a student's
10 residency status, including a move which would affect the
11 student's district of residence determination, the parent or
12 guardian shall notify the former school district of residence of
13 the change in residency through the use of a form developed by
14 the department. The notification shall include:

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

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

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

21 (iv) The signature of the parent or legal guardian of the
22 student.

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

26 (e) Failure of a charter school to submit notification under
27 this section shall result in a school district withholding
28 payment to the charter school until fifteen (15) days after the
29 district of residence is in receipt of the required
30 notification, if the district of residence determines the

1 student is a resident of the district.

2 Section 3. Section 1725-A(a) of the act, amended June 29,
3 2002 (P.L.524, No.88), is amended to read:

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

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

8 (2) For non-special education students, the charter school
9 shall receive for each student enrolled no less than the
10 [budgeted] actual total expenditure per average daily membership
11 of the prior school year, as defined in section 2501(20), minus
12 the [budgeted] actual expenditures at the end of the most recent
13 fiscal year of the district of residence for nonpublic school
14 programs and services; adult education programs;
15 community/junior college programs; student transportation
16 services; for special education programs; facilities
17 acquisition, construction and improvement services; athletic
18 funds and school sponsored extra-curricular activities set up in
19 accordance with section 511; the full employer's share of
20 retirement contributions paid to the Public School Employees'
21 Retirement System; tuition to Pennsylvania charter schools for
22 educational services provided to students attending the charter
23 school; and other financing uses, including debt service and
24 fund transfers as provided in the Manual of Accounting and
25 Related Financial Procedures for Pennsylvania School Systems
26 established by the department. This amount shall be paid by the
27 district of residence of each student.

28 (3) (i) For special education students, the charter school
29 shall receive for each student enrolled the same funding as for
30 each non-special education student as provided in clause (2),

1 plus an additional amount determined by dividing the district of
2 residence's total special education expenditure by the product
3 of multiplying the combined percentage of section 2509.5(k)
4 times the district of residence's total average daily membership
5 for the prior school year. This amount shall be paid by the
6 district of residence of each student, but not to exceed the
7 actual cost of the educational services provided for special
8 education students.

9 (ii) If a nonspecial education student is identified by the
10 charter school in which the student is enrolled as a student
11 with a disability in need of special education services, the
12 district of residence shall have the power to administer and
13 deliver the educational services required to address the
14 specific needs of the exceptional student in lieu of payments by
15 the district of residence for such student.

16 (iii) A resident school district may not pay out to charter
17 schools or cyber charter schools an amount greater than it
18 receives for special education in a school year.

19 (4) A charter school may request the intermediate unit in
20 which the charter school is located to provide services to
21 assist the charter school to address the specific needs of
22 exceptional students. The intermediate unit shall assist the
23 charter school and bill the charter school for the services. The
24 intermediate unit may not charge the charter school more for any
25 service than it charges the constituent districts of the
26 intermediate unit. If the service is provided by the
27 intermediate unit or school district, the charter school shall
28 provide a copy of the contract and invoice for the services to
29 the student's school district of residence.

30 (5) [Payments] (i) Except as provided under subclause (ii),

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

12 (ii) Payments may not be made for any resident student
13 attending a charter school if the district of residence or
14 intermediate unit offers a cyber school program that is
15 available to resident students at the same grade level and same
16 academic subject or the district of residence administers and
17 delivers the educational services required to address the
18 specific needs of non-special education and exceptional students
19 enrolled at the charter school.

20 (6) Within thirty (30) days after the secretary makes the
21 deduction described in clause (5), a school district may notify
22 the secretary that the deduction made from State payments to the
23 district under this subsection is inaccurate. The secretary
24 shall provide the school district with an opportunity to be
25 heard concerning whether the charter school documented that its
26 students were enrolled in the charter school, the period of time
27 during which each student was enrolled, the school district of
28 residence of each student and whether the amounts deducted from
29 the school district were accurate.

30 (7) Except for a student who is enrolled in a charter school

1 on the effective date of this clause, payment to a charter
2 school may be no more than one-half of the amount in clauses (2)
3 and (3), where applicable, for each resident student who attends
4 a half-day kindergarten program offered by the charter school.

5 (8) The amounts calculated in clauses (2) and (3) shall be
6 calculated using the actual expenditure data at the end of the
7 most recent fiscal year and submitted on a form prescribed by
8 the department not later than October 31 of each year. The
9 amount calculated shall remain in effect until October 31 of the
10 next year.

11 * * *

12 Section 3.1. Section 1728-A(b) of the act, added June 19,
13 1997 (P.L.225, No.22), is amended to read:

14 Section 1728-A. Annual Reports and Assessments.--* * *

15 (b) In order to facilitate the local board's review and
16 secretary's report, each charter school shall submit an annual
17 report no later than August 1 of each year to the local board of
18 school directors and the secretary in the form prescribed by the
19 secretary. The annual report shall include all of the following:

20 (1) The actual cost of nonspecial education services
21 provided to each nonspecial education student and the amount of
22 payment received by each district of residence.

23 (2) The actual cost of nonspecial and special education
24 services provided to each special education student and the
25 amount of payment received by each district of residence.

26 * * *

27 Section 4. The act is amended by adding a section to read:

28 Section 1733-A. Actual Costs of Education Services.--(a)
29 Within one hundred eighty (180) days of the effective date of
30 this section, the department shall promulgate audit standards

1 under this article which shall be used in determining the year-
2 end actual costs of educational services per non-special
3 education student and special education student provided by a
4 charter school or a cyber charter school to any child who is a
5 resident of a school district, which are subject to payment in
6 accordance with section 1725-A. The department shall follow the
7 procedures provided in the act of July 31, 1968 (P.L.769,
8 No.240), referred to as the Commonwealth Documents Law, and the
9 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
10 Review Act, for promulgation and review of final-omitted
11 regulations. Subsequent audit standards promulgated under this
12 section or amendments to the initial audit standards may not be
13 in final-omitted form. The audit standards shall take effect at
14 the beginning of the first school year after which such audit
15 standards have been promulgated.

16 (b) In order that the year-end actual costs of educational
17 services per non-special education student and special education
18 student are thoroughly and properly determined, the audit
19 standards promulgated by the department shall:

20 (1) Specify reasonable costs associated with the operation
21 of the educational program offered by a charter school and a
22 cyber charter school. The following may not be considered
23 reasonable costs associated with the operation of the
24 educational program offered by a charter school and a cyber
25 charter school:

26 (i) Any paid media advertisement, including television,
27 radio, movie theater, billboard, bus poster, newspaper,
28 magazine, the Internet or any other commercial method that may
29 promote enrollment of a charter school and a cyber charter
30 school.

1 (ii) Any lobbying, legislative advocacy consulting or any
2 effort to influence Federal or State legislation or policy
3 affecting either that charter school or cyber charter school
4 specifically or charter schools in general.

5 (iii) Any bonuses or additional compensation beyond the
6 annual or termed contractual compensation for all faculty,
7 administration and staff, including salary, benefits and any
8 additional compensation not specifically enumerated in the
9 contract.

10 (2) Allow a closely related business entity to charge up to
11 one hundred and seven per centum (107%) of the actual
12 educational costs.

13 (3) Require information as necessary for a full-scope review
14 of a finalized management agreement entered into between a
15 charter school or cyber charter school and a closely related
16 business entity, including:

17 (i) All payments received from school districts of
18 residence.

19 (ii) Expenditures of the closely related business entity
20 related to the delivery of educational and administrative
21 services pursuant to the management agreement.

22 (4) List and show all receipts and expenditures for an
23 educational service provider that provides any service to a
24 charter school or cyber charter school.

25 (5) Provide reasonable penalties for failure to comply.

26 (c) The following shall apply:

27 (1) The department shall effectuate an annual year-end final
28 reconciliation process of tuition payments against actual costs
29 of educational services per non-special education student and
30 special education student provided and necessary procedures for

1 the transfer of funds from the charter school or cyber charter
2 school to the school district of residence. The final
3 reconciliation process shall include one of the following:

4 (i) Allowing a school district of residence to withhold its
5 last monthly payment from a charter school or cyber charter
6 school to account for any overpayments as identified by the
7 year-end audit. If the school district of residence has sent
8 overpayments, the district may adjust its last monthly payment
9 accordingly.

10 (ii) Requiring a charter school or cyber charter school at
11 the end of each school year to return any overpayments to a
12 school district of residence owed a refund. A charter school or
13 cyber charter school may not return any overpayments on a pro-
14 rata basis.

15 (2) Procedures for the transfer of funds may not permit the
16 department to deduct from a school district of residence's basic
17 education subsidy any amount in excess of the selected
18 expenditure per average daily membership amount calculated in
19 accordance with section 1725-A.

20 (d) Charter schools, cyber charter schools, educational
21 service providers and closely related business entities shall
22 provide to the department, unless already retained by the
23 department, any information necessary to carry out the
24 provisions of this section.

25 (e) Except as provided under subsection (c), nothing
26 contained under this section shall permit a school district of
27 residence to provide funding for charter schools or cyber
28 charter schools in a manner other than that which is specified
29 in section 1725-A.

30 (f) For the purposes of this section:

1 "Closely related business entity" shall mean any organization
2 with a management or operational relationship with a charter
3 school involving either shared or overlapping aspects of
4 corporate identity such as ownership, board of directors or
5 trustees membership, capital or profits.

6 "Educational and administrative services" shall mean any
7 direct expenditures for any instruction and the administration
8 of the instructional program. The term shall not include any
9 expenditures not pertaining directly to the instruction and the
10 administration of the instructional program.

11 "Educational service provider" shall mean a for-profit
12 education management organization, nonprofit charter management
13 organization, school design provider, business manager or any
14 other partner entity with which a charter school or cyber
15 charter school intends to contract or presently contracts to
16 provide educational services, operational services or management
17 services to the charter school. The term shall not include a
18 charter school or cyber charter school foundation.

19 "Management agreement" shall mean any contract establishing a
20 management or operational relationship between a charter school
21 or cyber charter school and closely related business entity for
22 the provision of professional or nonprofessional services to the
23 charter school or cyber charter school.

24 Section 5. Section 1743-A(a) and (f) of the act, added June
25 29, 2002 (P.L.524, No.88), are amended to read:

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

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

30 (1) [provide] Provide discounts to a school district or

1 waive payments under section 1725-A for any student[;].

2 (2) [except] Except as provided for in subsection (e),
3 provide payments to parents or guardians for the purchase of
4 instructional materials[; or].

5 (3) [except] Except as compensation for the provision of
6 specific services, enter into agreements to provide funds to
7 a school entity.

8 (4) (i) For the 2012-2013 school year and each school
9 year thereafter, accumulate an unassigned fund balance
10 greater than the cyber charter fund balance limit, which
11 shall be determined as follows:

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

24 (ii) Any unassigned fund balance in place on June
25 30, 2012, that exceeds the cyber charter school fund
26 balance limit shall be refunded on a per student pro rata
27 basis within 90 days of the effective date of this
28 subparagraph to all school districts that made payments
29 under section 1725-A in the 2010-2011 and 2011-2012
30 school years. The funds may not be used to pay bonuses to

1 any administrator, board of trustees member, employee,
2 staff or contractor or be transferred to a charter school
3 foundation, closely related business entity or
4 educational service provider.

5 (iii) For the 2012-2013 school year and each school
6 year thereafter, any unassigned fund balance in excess of
7 the cyber charter school fund balance limit shall be
8 refunded on a per student pro rata basis to all school
9 districts that made payments under section 1725-A in the
10 prior school year.

11 (iv) By August 15, 2012, and August 15 of each year
12 thereafter, each cyber charter school shall provide the
13 department with information certifying compliance with
14 this paragraph. The information shall be provided in a
15 form and manner prescribed by the department and shall
16 include information on the cyber charter school's
17 estimated ending unassigned fund balance expressed as a
18 dollar amount and as a percentage of the cyber charter
19 school's total budgeted expenditures for that school
20 year.

21 (v) As used in this section, the term "unassigned
22 fund balance" shall mean that portion of the fund balance
23 which represents the part of the spendable fund balance
24 that has not been categorized as restricted, committed or
25 assigned.

26 * * *

27 (f) Annual report.--A cyber charter school shall submit an
28 annual report no later than August 1 of each year to the
29 department in the form prescribed by the department. The annual
30 report shall include all of the following:

1 (1) The actual cost of non-special education services
2 provided to each non-special education student and the amount
3 of payment received by each district of residence.

4 (2) The actual cost of non-special and special education
5 services provided to each special education student and the
6 amount of payment received by each district of residence.

7 * * *

8 Section 6. Section 1748-A heading, (a) (1) and (2) (i) and (vi)
9 and (c) of the act, added June 29, 2002 (P.L.524, No.88), are
10 amended, subsection (b) is amended by adding paragraphs and the
11 section is amended by adding subsections to read:

12 Section 1748-A. Enrollment and notification and attendance.

13 (a) Notice to school district.--

14 (1) Within [15] ten days of the enrollment of a student
15 to a cyber charter school, the parent or guardian and the
16 cyber charter school shall notify the student's school
17 district of residence of the enrollment through the use of
18 the notification form under subsection (b) and provide a copy
19 of documentation allowable under Article XIII verifying the
20 student's residence.

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

24 (i) Within [seven] ten days of receipt of the notice
25 under paragraph (1), the school district shall notify the
26 cyber charter school and the department that the student
27 is not a resident of the school district. Notification of
28 nonresidence shall include the basis for the
29 determination.

30 * * *

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

5 * * *

6 (b) Notification form.--The department shall develop a
7 notification form for use under subsection (a). The notification
8 shall include:

9 * * *

10 (6) The student's former school information, including
11 the name and address of the school district, the student's
12 record of attendance, the withdrawal date from the former
13 school district, if applicable and the type of education
14 services received, for example, non-special education or
15 special education.

16 (7) Verification of the student's residency, including
17 the parent or guardian's deed, lease, current utility bill,
18 current credit care bill, property tax bill, vehicle
19 registration, driver's license or Department of
20 Transportation identification card.

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

28 (c) Withdrawal.--The cyber charter school and the parent or
29 guardian of a student enrolled in a cyber charter school shall
30 provide written notification to the student's school district of

1 residence within [15] ten days following the withdrawal of a
2 student from the cyber charter school.

3 (d) Change in residency status.--

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

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

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

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

18 (iv) The signature of the parent or legal guardian
19 of the student.

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

23 (e) Attendance.--

24 (1) In addition to requirements under Article XIII, upon
25 a student's unlawful absence from the cyber charter school at
26 any point within the school year, a cyber charter school
27 shall immediately inform a student's parents or guardians and
28 his or her student's school district of residence of each
29 incident of the student's unlawful absence from the cyber
30 charter school. Notice shall be sent as follows:

1 (i) Immediately after a student's first and second
2 unlawful absence, the cyber charter school shall send a
3 printed notice to the parent or guardian indicating the
4 student's unlawful absence from the cyber charter school.
5 The legal penalties established by law for violation of
6 compulsory attendance requirements shall be attached to
7 the notice. The notice shall also include the name and
8 telephone number of a cyber charter school contact person
9 who shall be able to offer assistance in resolving the
10 student's truant behavior. A printed copy, exactly as
11 sent to the parent or guardian, shall be mailed to the
12 student's district of residence after each unlawful
13 absence.

14 (ii) Immediately after a student's third unlawful
15 absence from the cyber charter school, the cyber charter
16 school shall send by certified mail an official notice of
17 the student's third illegal absence. The legal penalties
18 for violation of compulsory attendance requirements as
19 they pertain to both the student and the parent or
20 guardian, including information that three days after
21 giving the notice, the student or parent or guardian who
22 again violates the compulsory requirements shall be
23 liable without further notice, shall be attached to the
24 notice. A printed copy of the official notice of the
25 student's third illegal absence, exactly as sent to the
26 parent or guardian, shall be sent to the student's
27 district of residence by certified mail.

28 (2) Immediately after a student's third unlawful absence
29 from the cyber charter school, the cyber charter school shall
30 immediately institute truancy proceedings under section 1333

1 in the jurisdiction wherein the truant student resides and
2 notify the parent or guardian by certified mail that a
3 citation is being sent to the magisterial district judge. A
4 copy of the notice and the citation, exactly as sent to the
5 parent or guardian and magisterial district judge, shall be
6 sent to the student's district of residence by certified
7 mail.

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

15 (4) The following shall apply:

16 (i) Upon a school district receiving a notification
17 of an enrollment form for any student who is in violation
18 of compulsory attendance requirements and is truant from
19 the school district, the school district of residence
20 shall inform the cyber charter school in writing about
21 the student's truant behavior.

22 (ii) If a student who is truant from the student's
23 school district of residence enrolls in a cyber charter
24 school, the cyber charter school shall provide to the
25 student's district of residence documentation during the
26 student's first three months of enrollment that the
27 student is fulfilling compulsory attendance requirements
28 and completing assignments as required by the cyber
29 charter school.

30 (f) Penalties.--Failure of a charter or cyber charter school

1 to submit notification under this section shall result in a
2 school district withholding payment to the charter school until
3 15 days after the district of residence is in receipt of the
4 required notification, if the district of residence determines
5 the student is a resident of the district.

6 Section 7. Section 1749-A(a)(1) of the act, added June 29,
7 2002 (P.L.524, No.88), is amended to read:

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

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

12 (1) Sections 108, 110, 111, 321, 325, 326, 327, 431,
13 436, 443, 510, 518, 527, 609, 687(a), (b), (c), (d), (h) and
14 (i), 708, 752, 753, [755], 771, 776, 777, 807.1 808, 809,
15 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301, 1302, 1310,
16 1317.2, 1318, 1330, 1332, 1333, 1354, 1355, 1303-A, 1518,
17 1521, 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-
18 A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A, 1725-A,
19 1727-A, 1729-A, 1730-A, 1731-A(a)(1) and (b), 1733-A and
20 2014-A and Articles XII-A, XIII-A [and], XIV and XXIV.

21 * * *

22 Section 8. This act shall take effect in 60 days.