

House Education Committee
Public Hearing on the Cyber Charter School Application and Renewal Process
March 22, 2022

Good morning, Chairman Sonney, Chairman Longietti, and honorable committee members. I'm Dr. Sherri Smith, Deputy Secretary for the Office of Elementary and Secondary Education at the Pennsylvania Department of Education (Department), and I'm joined today by Adam Schott, Special Assistant to Secretary Ortega, to discuss the Department's work as the authorizer of statewide cyber charter schools.

To set context, as Deputy Secretary, I oversee the Department's Division of Charter Schools, a four-member team that provides general technical assistance to Pennsylvania's 179 public charter schools, brick-and-mortar and cyber alike, and helps coordinate more differentiated and targeted technical assistance to our 14 statewide cyber charters. Mr. Schott, as Special Assistant, is delegated certain duties of the Secretary of Education concerning oversight of cyber charter schools; this division of functions preserves Secretary Ortega's ability to serve as final decision maker on cyber charter school renewals, nonrenewals, and revocations.

It's our understanding that a focus of today's discussion regards the fact that 11 of 14 currently operating cyber charter schools are awaiting a charter renewal decision from the Department. This is true, and we know that the statistic is a cause for concern for members of the General Assembly and the charter school community; it's a concern we share. So, let's start there, with some background.

Under Pennsylvania's Charter School Law, a charter remains in full effect until it is: 1) **renewed in the form of a new five-year charter**; or 2) **non-renewed or revoked by the charter school's authorizer** and the charter school's considerable appeal rights before the Charter Appeal Board and in the courts are exhausted. This binary choice between a lengthy renewal term that may not be supportable based on the school's financial conditions, organizational viability, and student outcomes or a costly and litigious process that is enormously disruptive for schools and families results in the unfortunate status quo—that is, too many cyber charter schools operating under antiquated charter terms.¹

Notwithstanding the limitations of Pennsylvania's Charter School Law, the Department has made progress in authorizing activities over the past three years including:

- Renewing the highest performing cyber charter schools in the sector—three public schools that collectively educate nearly 15,000 students;
- Securing the closure of the lowest performing cyber charter school in the state, while issuing a notice to close a second school after the school in question rebuffed multiple efforts by the Department to negotiate a gradual winddown of school operations;

¹ This issue is not unique to the cyber sector; too many brick-and-mortar charter schools likewise operate under charters that are due renewal decisions for reasons ranging from limited authorizer capacity to disruptions associated with the COVID-19 pandemic to an inability on the part of both authorizer and charter school to agree on renewal terms.

- Designating all 14 cyber charter schools for either comprehensive or targeted supports on the basis of Federally required accountability determinations;
- Resuming the review process for four additional cyber schools with charter terms that came due just prior to or during the pandemic; and
- Issuing decisions—denials all—on five proposals for new statewide cyber charter schools. More on these denials shortly.

Additionally, the Department commissioned, at no cost to taxpayers, cutting-edge research by the Center for Research on Education Outcomes (CREDO) at Stanford University on the performance of Pennsylvania cyber charter schools relative to brick-and-mortar counterparts. CREDO's report "found overwhelmingly negative results...from online charter schools; any potential benefits of online schooling such as student mobility and flexibility in curriculum are drowned out by the negative impacts on academic growth."² Based on this research, CREDO urged state leaders to assess and strengthen oversight practices—a charge the Department takes seriously, and that informed the agency's engagement in a competitive process to identify an R1 institution, ultimately Temple University, to support authorizing activities. Researchers from Temple bring expertise in advanced quantitative techniques, charter school management, and educator preparation to the renewal process to complement the work of Public Financial Management in evaluating schools' financial and operational domains.

Next, the Department has made substantial efforts to evaluate whether other cyber charters, beyond the three higher performing schools referenced above, might be recommended to the Secretary for renewal. While we cannot reveal specific information related to individual schools discussed under terms of possible settlement, the Department has outlined a host of issues that, if satisfied, would allow more schools to move towards charter renewal.

One such issue is an enrollment parameter or cap for cyber charter schools that perform among the bottom five percent of all public schools statewide and/or fail to graduate one-third of students, and that have exhibited these performance challenges over multiple years.³ Enrollment caps or parameters are commonplace across the higher performing brick-and-mortar sector and have been identified as a best practice nationally by an array of policy, research, and even charter school advocacy organizations.⁴ For cyber charter schools, enrollment parameters ensure: 1) a focus on student outcomes; 2) orderly, managed student enrollment across the sector; and 3) equitable distribution of resources, including student-weighted Federal school improvement grants. Any enrollment parameter would be removed once the school satisfies Federal accountability targets. In no instance would an enrollment parameter require a cyber charter school to reduce its current student population from current, pandemic-driven levels or to cut staffing levels.

² See: [Charter School Performance in Pennsylvania \(2019\)](#)

³ Currently, 10 of 14 cyber charter schools are designated for Comprehensive Support and Improvement (CSI), a Federal designation tied to the lowest performing five percent of Title I schools in a state.

⁴ See: [A Call to Action to Improve the Quality of Full-time Virtual Charter Public Schools](#) and [The Policy Framework for Online Charter Schools](#).

Finally, it must be said that a subset of charter schools is or has been subject to one or more proceedings initiated by governmental agencies other than the Department, and the results of those evaluations or investigations will bear on any possible renewal decision. Of course, any cyber charter school that is subject to nonrenewal or revocation procedures that rely, in whole or in part, on the findings from such investigations would be afforded due process as set forth in the Charter School Law, including through the courts.

Each of the authorizing challenges outlined above—blunt authorizing tools, the inability to issue provisional or shorter-term charter renewals, the inability to reach mutually agreeable charter terms, and operational and other concerns that have drawn the attention of outside bodies—would be mitigated by the Governor’s proposed amendments to Pennsylvania’s Charter School Law.

The Charter School Law requires the Department to act on new cyber charter school applications within a certain timeframe, meaning new applications must be prioritized over renewals and assistance to current schools. For this reason, it is especially crucial that the General Assembly enact a moratorium on proposals for new cyber charter schools given the steady influx of woefully deficient applications⁵ that consume thousands of hours of Department staff spend reviewing the applications, holding public hearings, and writing exhaustive decisions to protect students and families from programs such as these:

Table 1. Extracts from Proposed Cyber Charter Applications

(Extracts are drawn directly from cyber charter applications and hearings, 2019-2021.

For full decisions, see Charter Applications at <https://www.education.pa.gov/K-12/Charter%20Schools/Pages/Charter-Applications.aspx>)

“Applicant 1”	The Applicant fails to cite any assessment system (benchmark, formative, or summative; state-required or locally selected), fails to discuss high school graduation rate goals; and fails to articulate any postsecondary success goals. The Applicant includes a roughly half-page “SWOT Analysis” that is essentially indecipherable: this discussion appears to be premised on the operations of a “Saint Paul Community Charter School” that does not exist. One goal the Applicant does advance: to “attract loads of students from the first day we open our doors.”
“Applicant 2”	<p>The Applicant:</p> <ul style="list-style-type: none"> • Acknowledges that “there is no proposed faculty” • Outlines a non-compliant professional education plan, “draw[s] a blank” on professional development evaluation before generally describing a post-session “Google survey,” and neglects to include a teacher induction plan of any sort. • Provides incomplete, contradictory information on core special education funding. (When asked what assumptions were used to

⁵ Section 1745-A of the Charter School Law requires the Department to act on new cyber charter school applications within a certain timeframe; therefore, these submissions must be prioritized over any others.

	develop Individuals with Disabilities Education Act (IDEA) revenue estimates, a representative of the applicant incorrectly stated, “we did not include any of that.” When informed that the proposed budget had, in fact, included IDEA revenue estimates, a representative responded “that must have been an oversight. I do not have backup for this.”)
“Applicant 3”	Public comment in opposition to the Applicant consistently identifies low academic and other outcomes reported by out-of-state charter schools associated with Accel, the Applicant’s proposed service provider. For example, Accel’s Ohio Alternative Education Academy reported 13 separate “F” scores during the 2018-19 school year and a chronic absenteeism measure of 65.1 percent during the 2019-20 school year (Ohio School Report Cards Data Spreadsheets; Alternative Education Academy Report Card, Ohio School Report Cards, https://reportcard.education.ohio.gov/school/overview/143396 (last visited November 25, 2020)).

The Department regrets that the current Charter School Law requires us to provide what’s essentially free technical assistance to applicants that have proposed inappropriate, illogical, and unlawful programs for our most vulnerable student populations. (This is doubly true when these applicants are backed by large for-profit, out-of-state management providers.) Such reviews necessarily detract from other core functions of the agency, including the provision of meaningful technical assistance to existing cyber charter schools.

To conclude, Pennsylvania’s Charter School Law is premised on the notion of a subset of public schools sparking innovation for others; there’s an inherent contradiction between a law based on innovation and a law that is a quarter century old. It’s also true that the pandemic has fundamentally altered the state’s cyber charter sector—how these schools operate, the students and families they serve, and how they account for student performance and progress. Accordingly, we urge the General Assembly to act on bipartisan reform, such as Representative Ciresi’s House Bill 272, to allow the Department to improve accountability within the cyber charter sector, to better manage student growth in schools exhibiting significant academic and other challenges, to issue charter renewals that reflect leading authorizing practices nationally, and to improve school choice for Pennsylvania students and families.

Thank you for the chance to set this background and for today’s discussion. We are happy to take any questions.