

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 355 Session of  
2019

INTRODUCED BY REESE, DOWLING, MARSHALL, TOPPER, BROWN, COOK,  
DeLUCA, DUNBAR, GROVE, HARRIS, HICKERNELL, KAIL, MILLARD,  
MOUL AND TOBASH, MAY 7, 2019

REFERRED TO COMMITTEE ON EDUCATION, MAY 7, 2019

## 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 preliminary provisions, providing  
6 for advertising; and, in charter schools, further providing  
7 for definitions, for charter school requirements, for powers  
8 of board of trustees and for fund balance limits.

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

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

14 Section 128. Advertising.--(a) A paid media advertisement  
15 by a public school entity that refers to the cost of tuition or  
16 transportation shall not advertise those expenses as free, and  
17 any reference to tuition or transportation costs must stipulate  
18 that the cost is covered by taxpayer dollars. A paid media  
19 advertisement shall include a television, radio or movie theater  
20 advertisement, billboard, bus poster, newspaper, magazine,



publicly accessible Internet website or any other commercial method that may promote enrollment in a public school entity.

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

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

Section 1703-A. Definitions.--As used in this article,

"Administrator" shall include an employe of a charter school entity, including the chief administrator of a charter school entity and any other employe, who by virtue of the employe's position is responsible for taking official action of a nonministerial nature with regard to contracting or procurement, administering or monitoring grants or subsidies, managing or regulating staff, student and school activities or any activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

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

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

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

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

"Appeal board" shall mean the State Charter School Appeal



Board established by this article.

"Assessment" shall mean the Pennsylvania System of School Assessment test, the Keystone Exam or another test established or approved by the State board or the General Assembly to meet the requirements of section 2603-B or 2604-B or 22 Pa. Code § 4.51 (relating to State assessment system) or required under the Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802) or its successor Federal statute.

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

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

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

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

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



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

5 "Community college" shall mean a community college  
6 established under Article XIX-A.

7 "Cyber charter school" shall mean an independent public  
8 school established and operated under a charter from the  
9 Department of Education and in which the school uses technology,  
10 including electronic or digital books, in order to provide a  
11 significant portion of its curriculum and to deliver a  
12 significant portion of instruction to its students through the  
13 Internet or other electronic means. A cyber charter school must  
14 be organized as a public, nonprofit corporation. A charter may  
15 not be granted to a for-profit entity.

16 "Department" shall mean the Department of Education of the  
17 Commonwealth.

18 "Educational management service provider" shall mean a  
19 nonprofit charter management organization, for-profit education  
20 management organization, school design provider, business  
21 manager or any other partner entity with which a board of  
22 trustees of a charter school entity contracts to provide  
23 educational design, business services, comprehensive management  
24 or personnel functions or to implement the charter. The term  
25 shall not include a charter school foundation.

26 ~~"Immediate family member" shall mean a parent, spouse, child,~~  
27 ~~brother, sister, grandparent or grandchild.~~

28 ~~"Family member" shall mean a parent, stepparent, child,~~  
29 ~~stepchild, spouse, domestic partner, brother, sister,~~  
30 ~~stepbrother, stepsister, grandparent, grandchild, parent-in-law,~~



brother-in-law, sister-in-law, aunt, uncle or first cousin.

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

"Nonrelated" shall mean an individual who is not ~~an immediate~~ a family member.

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

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

"School entity" shall mean a school district, intermediate unit, joint school or area vocational-technical school.

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

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

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

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

(1) Except as otherwise provided in this article, a charter



1 school entity is exempt from statutory requirements established  
2 in this act, from regulations of the State board and the  
3 standards of the secretary not specifically applicable to  
4 charter [schools] school entities. Charter [schools] school  
5 entities are not exempt from statutes applicable to public  
6 schools other than this act.

7 (2) A charter school entity shall be accountable to the  
8 parents, the public and the Commonwealth, with the delineation  
9 of that accountability reflected in the charter. Strategies for  
10 meaningful parent and community involvement shall be developed  
11 and implemented by each school.

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

14 (4) A charter school entity shall be nonsectarian in all  
15 operations.

16 (5) A charter school entity shall not provide any religious  
17 instruction, nor shall it display religious objects and symbols  
18 on the premises of the charter school entity.

19 (6) A charter school entity shall not advocate unlawful  
20 behavior.

21 (7) A charter school entity shall only be subject to the  
22 laws and regulations as provided for in section 1732-A, or as  
23 otherwise provided for in this article.

24 (8) A charter school entity shall participate in the  
25 Pennsylvania State Assessment System as provided for in 22 Pa.  
26 Code Ch. 5 (relating to curriculum), or subsequent regulations  
27 promulgated to replace 22 Pa. Code Ch. 5, in the manner in which  
28 the school district in which the charter school entity is  
29 located is scheduled to participate.

30 (9) A charter school entity shall provide a minimum of one



1 hundred eighty (180) days of instruction or nine hundred (900)  
2 hours per year of instruction at the elementary level, or nine  
3 hundred ninety (990) hours per year of instruction at the  
4 secondary level. Nothing in this clause shall preclude the use  
5 of computer and satellite linkages for delivering instruction to  
6 students.

7 (10) Boards of trustees and contractors of charter [schools]  
8 school entities shall be subject to the following statutory  
9 requirements governing construction projects and construction-  
10 related work:

11 (i) The following provisions of this act:

12 (A) Sections 751 and 751.1.

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

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

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

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

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

24 (11) Trustees of a charter school entity shall be public  
25 officials[.]

26 (12) A person who serves as an administrator for a charter  
27 school shall not receive compensation from another charter  
28 school or from a company that provides management or other  
29 services to another charter school. The term "administrator"  
30 shall include the chief executive officer of a charter school



1 and all other employees of a charter school who by virtue of  
2 their positions exercise management or operational oversight  
3 responsibilities. A person who serves as an administrator for a  
4 charter school shall be a public official under 65 Pa.C.S. Ch.  
5 11 (relating to ethics standards and financial disclosure). A  
6 violation of this clause shall constitute a violation of 65  
7 Pa.C.S. § 1103(a) (relating to restricted activities), and the  
8 violator shall be subject to the penalties imposed under the  
9 jurisdiction of the State Ethics Commission.] for the purposes  
10 of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial  
11 disclosure) and shall file a statement of financial interests  
12 for the preceding calendar year with the State Ethics Commission  
13 and either the local board of school directors in the case of a  
14 charter school or regional charter school, or the department in  
15 the case of a cyber charter school, not later than May 1 of each  
16 year that members hold the position and of the year after a  
17 member leaves the position. All members of the board of trustees  
18 of a charter school entity shall take the oath of office as  
19 required under section 321 before entering upon the duties of  
20 their office.

21 (b) An individual who serves as an administrator for a  
22 charter school entity shall be a public employe for the purposes  
23 of 65 Pa.C.S. Ch. 11 and shall file a statement of financial  
24 interests for the preceding calendar year with the board of  
25 trustees not later than May 1 of each year that the person holds  
26 the position and of the year after the person leaves the  
27 position.

28 (c) (1) No individual who serves as an administrator for a  
29 charter school entity may receive compensation from another  
30 charter school entity or from an educational management service.





provider, unless:

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

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

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

(3) No administrator of a charter school entity or ~~immediate~~ family member of the administrator may serve as a voting member of the board of trustees of the charter school entity that employs the administrator.

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

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

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

(5) An administrator shall be immediately dismissed upon



conviction for an offense graded as a felony, an infamous crime,  
an offense pertaining to fraud, theft or mismanagement of public  
funds or any crime involving moral turpitude.

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

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

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

(2) An employe of the school district that chartered a  
charter school or regional charter school may serve as a member  
of the board of trustees of the charter school or regional  
charter school without voting privileges.

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

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



1 restricted activities).

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

7 (4) A contract made in violation of this subsection shall be  
8 voidable by a court of competent jurisdiction if the suit is  
9 commenced within ninety (90) days of the discovery of the  
10 violation.

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

13 (b.3) A member of the board of trustees of a charter school  
14 entity shall be automatically disqualified and immediately  
15 removed from the board of trustees upon conviction for an  
16 offense graded as a felony, an infamous crime, an offense  
17 pertaining to fraud, theft or mismanagement of public funds, any  
18 offense pertaining to the member's official capacity as a member  
19 of the board of trustees or any crime involving moral turpitude.

20 (c) The board of trustees shall comply with [the act of July  
21 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."]  
22 65 Pa.C.S. Ch. 7 (relating to open meetings).

23 (d) (1) (i) The board of trustees of a charter school  
24 entity shall consist of a minimum of five (5) nonrelated voting  
25 members.

26 (ii) If a charter school entity has fewer than five (5)  
27 nonrelated voting members serving on its board of trustees on  
28 the effective date of this subsection, the charter school entity  
29 shall, within sixty (60) days, appoint additional members to the  
30 board of trustees to meet the minimum requirements of this



1 section.

2 (2) Within one (1) year of the effective date of this  
3 subsection, at least one member of the board of trustees of a  
4 charter school entity shall be a parent of a child currently  
5 attending the charter school entity. The board of trustees  
6 member provided for under this paragraph shall be eligible to  
7 serve only so long as the child attends the charter school  
8 entity. This paragraph shall not apply to a charter school that  
9 primarily serves adjudicated youth.

10 (e) (1) A majority of the voting members of the board of  
11 trustees shall constitute a quorum. If less than a majority is  
12 present at any meeting, no business may be transacted at the  
13 meeting.

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

18 (f) A charter school entity shall form an independent audit  
19 committee of its board of trustees members which shall review at  
20 the close of each fiscal year a complete certified audit of the  
21 operations of the charter school entity. The audit shall be  
22 conducted by a qualified independent certified public  
23 accountant. The audit shall be conducted under generally  
24 accepted audit standards of the Governmental Accounting  
25 Standards Board and shall include the following:

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

28 (2) Full review of expense reimbursements for board of  
29 trustees members and administrators, including sampling of all  
30 reimbursements.



1 (3) Review of internal controls, including review of  
2 receipts and disbursements.

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

8 (5) Review of the financial statements of any charter school  
9 foundation.

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

12 (7) Review of all board policies and procedures with regard  
13 to internal controls, code of ethics, conflicts of interest,  
14 whistle-blower protections, complaints from parents or the  
15 public, compliance with 65 Pa.C.S. Ch. 7 (relating to open  
16 meetings), finances, budgeting, audits, public bidding and  
17 bonding.

18 (g) The certified audit under subsection (f) and the annual  
19 budget under subsection (i) are public documents and shall be  
20 made available on the charter school entity's publicly  
21 accessible Internet website, if available, and, in the case of a  
22 charter school or regional charter school, on the school  
23 district's publicly accessible Internet website.

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

27 (i) A charter school entity shall annually provide the  
28 department and, in the case of a charter school or regional  
29 charter school, shall annually provide the school district with  
30 a copy of the annual budget for the operation of the charter



school entity that identifies the following:

(1) The source of funding for all expenditures.

(2) Where funding is provided by a charter school foundation, the amount of funds and a description of the use of the funds.

(3) The salaries of all administrators of the charter school entity.

(4) All expenditures to an educational management service provider.

(j) (1) Notwithstanding any other provision of law, a charter school entity and any affiliated charter school foundation shall make copies of its annual Federal and State tax filings available upon request and on the charter school entity's or foundation's publicly accessible Internet website, if available, including Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax and all related schedules and appendices.

(2) The charter school foundation shall also make copies of its annual budget available upon request and on the foundation's or the charter school entity's publicly accessible Internet website within thirty (30) days of the close of the foundation's fiscal year.

(3) The annual budget shall include the salaries of all employees of the charter school foundation.

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

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

(1) For the 2018-2019 school year and each school year thereafter, a charter school entity shall not accumulate an unassigned fund balance greater than the charter school entity



1 unassigned fund balance limit, which will be determined as  
2 follows:

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

15 (2) For the 2018-2019 school year and each school year  
16 thereafter, any unassigned fund balance in place on June 30,  
17 2019, and on June 30 of each year thereafter in excess of the  
18 charter school entity unassigned fund balance limit shall be  
19 refunded on a pro rata basis within ninety (90) days to all  
20 school districts that paid tuition to the charter school entity  
21 in the prior school year, based upon the number of students for  
22 whom each school district paid tuition to the charter school  
23 entity multiplied by the school district's per student payment  
24 under section 1725-A.

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



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

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

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

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

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

28 Section 5. This act shall take effect as follows:

29 (1) The addition of section 128 of the act shall take  
30 effect in 180 days.





1           (2) The remainder of this act shall take effect in 60  
2    days.

