

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2727 Session of 2012

INTRODUCED BY PASHINSKI, BRENNAN, BRIGGS, BROWNLEE, CALTAGIRONE,
D. COSTA, FABRIZIO, FREEMAN, GEORGE, GERGELY, HALUSKA,
HORNAMAN, JOSEPHS, KORTZ, KOTIK, MUNDY, MURT, M. O'BRIEN,
QUINN, ROEBUCK, SAMUELSON, SANTONI, SCHMOTZER, STERN, STURLA
AND WILLIAMS, OCTOBER 23, 2012

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 23, 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 funding for charter schools.

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

9 Section 1. Section 1725-A(a)(2) and (3) of the act of March
10 10, 1949 (P.L.30, No.14), known as the Public School Code of
11 1949, amended June 29, 2002 (P.L.524, No.88), is amended to
12 read:

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

15 * * *

16 (2) For non-special education students, the charter school
17 shall receive for each student enrolled no less than the
18 [budgeted] actual total expenditure per average daily membership

1 of the prior school year, as defined in section 2501(20), minus
2 the [budgeted] actual expenditures at the end of the most recent
3 fiscal year of the district of residence for nonpublic school
4 programs and services; adult education programs;
5 community/junior college programs; student transportation
6 services; for special education programs; facilities
7 acquisition, construction and improvement services; and other
8 financing uses, including debt service and fund transfers as
9 provided in the Manual of Accounting and Related Financial
10 Procedures for Pennsylvania School Systems established by the
11 department. This amount shall be paid by the district of
12 residence of each student.

13 (3) For special education students, the charter school shall
14 receive for each student enrolled the same funding as for each
15 non-special education student as provided in clause (2), plus an
16 additional amount determined by dividing the district of
17 residence's total special education expenditure by the product
18 of multiplying the combined percentage of section 2509.5(k)
19 times the district of residence's total average daily membership
20 for the prior school year. This amount shall be paid by the
21 district of residence of each student, but not to exceed the
22 actual cost of the educational services provided for special
23 education students.

24 * * *

25 Section 2. This act is amended by adding a section to read:

26 Section 1733-A. Actual Costs of Education Services.--(a)
27 Within one hundred eighty (180) days of the effective date of
28 this section, the department shall promulgate audit standards
29 under this article which shall be used in determining the year-
30 end actual costs of educational services per non-special

education student and special education student provided by a
charter school or a cyber charter school to any child who is a
resident of a school district, which costs are subject to
payment in accordance with section 1725-A. The department shall
follow the procedures provided in the act of July 31, 1968
(P.L.769, No.240), referred to as the Commonwealth Documents
Law, and the act of June 25, 1982 (P.L.633, No.181), known as
the "Regulatory Review Act," for promulgation and review of
final-omitted regulations. Subsequent audit standards
promulgated under this section or amendments to the initial
audit standards may not be in final-omitted form. The audit
standards shall take effect at the beginning of the first school
year after which such audit standards have been promulgated.

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

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

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

(ii) Any lobbying, legislative advocacy consulting or any
effort to influence Federal or State legislation or policy

affecting either that charter school or cyber charter school specifically or charter schools in general.

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

(2) Allow a closely related business entity to charge up to one hundred seven per centum of the actual educational costs.

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

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

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

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

(5) Provide reasonable penalties for failure to comply.

(c) The following shall apply:

(1) The department shall effectuate an annual year-end final reconciliation process of tuition payments against actual costs of educational services per non-special education student and special education student that are provided and necessary procedures for the transfer of funds from the charter school or cyber charter school to the school district of residence. The final reconciliation process shall include one of the following:

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

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

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

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

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

27 (f) For the purposes of this section:

28 "Closely related business entity" shall mean any organization
29 with a management or operational relationship with a charter
30 school involving either shared or overlapping aspects of

corporate identity, such as ownership, board of directors or trustee membership, capital or profits.

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

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

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

Section 3. This act shall take effect immediately.