
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,

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

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

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

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

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

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

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

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

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

30 "Appeal board" shall mean the State Charter School Appeal

1 Board established by this article.

2 "Assessment" shall mean the Pennsylvania System of School
3 Assessment test, the Keystone Exam or another test established
4 or approved by the State board or the General Assembly to meet
5 the requirements of section 2603-B or 2604-B or 22 Pa. Code §
6 4.51 (relating to State assessment system) or required under the
7 Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802)
8 or its successor Federal statute.

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

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

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

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

25 "Charter school foundation" shall mean a nonprofit
26 organization under section 501(c)(3) of the Internal Revenue
27 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that
28 provides funding, resources or otherwise serves to support a
29 charter school entity, either directly or through an affiliated
30 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 "Local board of school directors" shall mean the board of
29 directors or other governing authority of a school district in
30 which a proposed or an approved charter school is located.

1 "Nonrelated" shall mean an individual who is not an immediate
2 family member.

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

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

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

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

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

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

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

26 (1) Except as otherwise provided in this article, a charter
27 school entity is exempt from statutory requirements established
28 in this act, from regulations of the State board and the
29 standards of the secretary not specifically applicable to
30 charter [schools] school entities. Charter [schools] school

1 entities are not exempt from statutes applicable to public
2 schools other than this act.

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

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

10 (4) A charter school entity shall be nonsectarian in all
11 operations.

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

15 (6) A charter school entity shall not advocate unlawful
16 behavior.

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

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

26 (9) A charter school entity shall provide a minimum of one
27 hundred eighty (180) days of instruction or nine hundred (900)
28 hours per year of instruction at the elementary level, or nine
29 hundred ninety (990) hours per year of instruction at the
30 secondary level. Nothing in this clause shall preclude the use

1 of computer and satellite linkages for delivering instruction to
2 students.

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

7 (i) The following provisions of this act:

8 (A) Sections 751 and 751.1.

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

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

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

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

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

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

22 (12) A person who serves as an administrator for a charter
23 school shall not receive compensation from another charter
24 school or from a company that provides management or other
25 services to another charter school. The term "administrator"
26 shall include the chief executive officer of a charter school
27 and all other employees of a charter school who by virtue of
28 their positions exercise management or operational oversight
29 responsibilities. A person who serves as an administrator for a
30 charter school shall be a public official under 65 Pa.C.S. Ch.

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

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

24 (c) (1) No individual who serves as an administrator for a
25 charter school entity may receive compensation from another
26 charter school entity or from an educational management service
27 provider, unless:

28 (i) The administrator has submitted a sworn statement to the
29 board of trustees of the charter school entity and the sworn
30 statement details the work for the other entity and includes the

1 projected number of hours, rate of compensation and projected
2 duration.

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

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

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

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

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

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

26 (5) An administrator shall be immediately dismissed upon
27 conviction for an offense graded as a felony, an infamous crime,
28 an offense pertaining to fraud, theft or mismanagement of public
29 funds or any crime involving moral turpitude.

30 Section 3. Section 1716-A(c) of the act is amended and the

1 section is amended by adding subsections to read:

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

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

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

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

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

28 (3) A member of the board of trustees of a charter school
29 entity who knowingly violates this subsection commits a
30 violation of 65 Pa.C.S. § 1103(a) and shall be subject to the

1 penalties imposed under the jurisdiction of the State Ethics
2 Commission.

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

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

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

16 (c) The board of trustees shall comply with [the act of July
17 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."] 65
18 Pa.C.S. Ch. 7 (relating to open meetings).

19 (d) (1) (i) The board of trustees of a charter school
20 entity shall consist of a minimum of five (5) nonrelated voting
21 members.

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

28 (2) Within one (1) year of the effective date of this
29 subsection, at least one member of the board of trustees of a
30 charter school entity shall be a parent of a child currently

1 attending the charter school entity. The board of trustees
2 member provided for under this paragraph shall be eligible to
3 serve only so long as the child attends the charter school
4 entity. This paragraph shall not apply to a charter school that
5 primarily serves adjudicated youth.

6 (e) (1) A majority of the voting members of the board of
7 trustees shall constitute a quorum. If less than a majority is
8 present at any meeting, no business may be transacted at the
9 meeting.

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

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

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

24 (2) Full review of expense reimbursements for board of
25 trustees members and administrators, including sampling of all
26 reimbursements.

27 (3) Review of internal controls, including review of
28 receipts and disbursements.

29 (4) Review of annual Federal and State tax filings,
30 including the Internal Revenue Service Form 990, Return of

1 Organization Exempt from Income Tax and all related schedules
2 and appendices for the charter school entity and charter school
3 foundation, if applicable.

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

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

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

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

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

23 (i) A charter school entity shall annually provide the
24 department and, in the case of a charter school or regional
25 charter school, shall annually provide the school district with
26 a copy of the annual budget for the operation of the charter
27 school entity that identifies the following:

28 (1) The source of funding for all expenditures.

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

1 the funds.

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

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

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

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

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

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

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

24 (1) For the 2018-2019 school year and each school year
25 thereafter, a charter school entity shall not accumulate an
26 unassigned fund balance greater than the charter school entity
27 unassigned fund balance limit, which will be determined as
28 follows:

29		<u>Maximum Unassigned Fund</u>
30	<u>Charter School Entity</u>	<u>Balance as Percentage of</u>

<u>Total Budgeted Expenditures</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>

11 (2) For the 2018-2019 school year and each school year
 12 thereafter, any unassigned fund balance in place on June 30,
 13 2019, and on June 30 of each year thereafter in excess of the
 14 charter school entity unassigned fund balance limit shall be
 15 refunded on a pro rata basis within ninety (90) days to all
 16 school districts that paid tuition to the charter school entity
 17 in the prior school year, based upon the number of students for
 18 whom each school district paid tuition to the charter school
 19 entity multiplied by the school district's per student payment
 20 under section 1725-A.

21 (3) By October 31, 2019, and by October 31 of each year
 22 thereafter, each charter school entity shall provide the
 23 department and all school districts that paid tuition to the
 24 charter school entity in the prior school year with information
 25 certifying compliance with this section. The information shall
 26 be provided in a form and manner prescribed by the department
 27 and shall include information on the charter school entity's
 28 estimated ending unassigned fund balance expressed as a dollar
 29 amount and as a percentage of the charter school entity's total
 30 budgeted expenditures for that school year.

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

16 (5) As used in this section, "unassigned fund balance" shall
17 mean that portion of the fund balance of a charter school entity
18 that provides funding that serves to support the charter school
19 entity that is:

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

22 (ii) held in the General Fund accounts of the charter school
23 entity.

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

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

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