



SusQ-Cyber Charter School

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Pennsylvania's First Cyber Charter School

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MAR 18 2022

March 17, 2022

Pennsylvania Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

**Independent Regulatory
Review Commission**

Members of the Independent Regulatory Review Commission,

I am writing on behalf of SusQ-Cyber Charter School, one of the 14 public cyber charter schools operating in Pennsylvania, to express our **OPPOSITION to Regulation #6-349: Charter Schools and Cyber Charter Schools.**

SusQ-Cyber is Pennsylvania's first cyber charter school – operating for more than 24 years – physically located in Bloomsburg but serving students from across the Commonwealth. SusQ-Cyber is unique amongst the cyber charter school community in that we specialize in serving high-school students who are on the brink of failing to complete high school due to physical or mental health challenges, bullying, or challenges related to being a young parent or their family's breadwinner. SusQ-Cyber currently serves 84 students -- 55.6 percent of which are economically disadvantaged and 24.1 percent require special education services. I share this background because **Regulation #6-349 will impact SusQ-Cyber in more drastic ways due to our size, our limited resources and our unique student population.**

Please accept the following comments on Regulation #6-349 as part of the public record:

- 1. The public cyber charter school community was not actively or meaningfully engaged in the drafting of Regulation #6-349 by the Pennsylvania Department of Education (PDE) and the public cyber charter school community's comments/concerns during the public comment period were ignored.**

While PDE continues to claim that they actively engaged the public charter school community throughout the process of drafting, revising and finalizing Regulation #6-349, this was certainly not the case. There are currently 14 public cyber charter schools operating in Pennsylvania and PDE authorizes all of them. As the CEO of one of these schools, I can confirm that PDE never reached out to me personally to discuss the impact that their regulations would have on my school and I would venture to guess my colleagues in the other 13 cyber charters were not engaged either.

All of the organizations representing the public charter school community submitted feedback to PDE during the public comment period, as well as some individual charter schools, but their concerns and suggestions were completely discarded. The regulatory process is meant to be collaborative and it is my understanding that the charter school community attempted to work with PDE but was shut out at every turn.

- 2. PDE's final form regulations on enrollment could impact a public cyber charter school's ability to serve their students, maintain student-teacher ratios which are essential to their educational model and meet the Commonwealth's requirement to provide "a thorough and efficient system of public education".**

Regulation #6-349 § 713.5. expands the scope of Pennsylvania's Charter School Law by prohibiting public cyber charter schools from managing their own enrollment levels based on capacity, resources and staffing constraints. If a public cyber charter school has determined that they are unable to provide a "thorough and efficient system of public education" to students when they go above a particular enrollment threshold, it is irresponsible and in violation of the Pennsylvania Constitution to enroll these additional students. While there are very rare occurrences where this situation may take place, public cyber charter schools should not be punished or non-renewed due to their inability to enroll students due to capacity restraints.

As the smallest public cyber charter school in the Commonwealth and our unique educational model, SusQ-Cyber has limited capacity and can't accommodate significant growth without additional staff and resources. SusQ-Cyber supports the use of a lottery if/when more students apply for enrollment than a public cyber charter school can serve, just like public brick-and-mortar charter schools.

- 3. PDE's final form regulations dealing with the redirection process only considers the needs of school districts and the PA Department of Education, and discounts the potential harm the changes would have on public charter schools.**

Regulation #6-349 § 713.8. clearly violates Pennsylvania's Charter School Law by ignoring the requirement that "payments shall be made to the charter school in twelve (12) equal monthly payments" (24 P.S. § 1725-A(a)(5)). PDE actually acknowledges in the "Comment and Response Document" (in response to a question from Sen. Scott Martin on page 6) that the law requires 12 monthly payments and Regulation #6-349 contradicts the Law.

The redirection portion of the final form regulations would require public charter schools to jump through hoops to obtain the funding that rightfully belongs to their students and the districts are legally required to transfer. For public cyber charter schools that educate students from hundreds of school districts across the Commonwealth, this process could be debilitatingly burdensome.

As written, Regulation #6-349 would also delay a charter school's reimbursement payment by creating a timeline that goes beyond the scope of the Charter School Law and fails to address the main problem with the charter reimbursement process - - the significant number of school districts that break the Law each month and withhold funding for charter school students.

As one of the smallest public local education agencies (LEA) operating in Pennsylvania, SusQ-Cyber only has an operating budget of approximately \$1.2 million and the rising costs for the services we provide leaves us with very little in budgetary reserves. SusQ-Cyber's existence relies primarily on the timely and accurate monthly reimbursement payments from school districts. Any delay in these payments could mean an inability to pay our staff or pay our bills, which is grounds for our charter to be non-renewed by PDE.

4. **PDE's final form regulations appear to grant charter school authorizers the power to determine if public charter schools are providing their staff with the "same" health care benefits for their employees as their local district. It goes on to outline how charter schools could be punished if they fail to conform to the authorizer's definition.**

Currently, Pennsylvania's Charter School Law requires that public charter schools provide their employees with "the same health care benefits" (24 P.S. § 1724-A(d)) that they would receive if they were employed at their local school district. The Charter School Law does not specify that charter school authorizers (school districts or PDE) have the power to define what "same" means in the context of health care benefits. However, Regulation #6-349 appears to give this authority, in the case of cyber charters, to PDE by stating that: "Authorizers may consider the evidence provided by charter schools, regional charter schools, and cyber charter schools as required in subsection (a) when making charter renewal determinations" (§ 713.9.(b)). This is extremely concerning for Pennsylvania's public cyber charter schools because PDE has shown themselves to be an inconsistent and punitive authorizer.

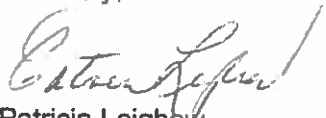
In an effort to close existing public cyber charter schools, PDE could use the language in Regulation #6-349 as a basis for non-renewals - - even in cases where cyber charters are offering their employees better benefits than their local school district.

PDE claims that Regulation #6-349 will set "conditions that emphasize accountability, equity, quality, and transparency" but that is neither the Department's intention nor the outcome if they are adopted. If PDE truly cared about accountability, equity, quality and transparency they would have focused their time and resources on the statutory duty they already have to be high-quality authorizers of Pennsylvania's public cyber charter schools.

Currently, 11 of the 14 public cyber charter schools operating in the Commonwealth are doing so under an expired charter agreement because PDE has failed to consider their renewal applications. SusQ-Cyber's charter agreement expired on June 30, 2020 but some of my colleagues have been waiting upwards of six years to go through the renewal process. Governor Wolf has been in office for more than seven years and his administration is just now starting consider these renewal applications - - with the goal of closing some of these schools and/or placing severe restrictions on their growth before he leaves office. Please make no mistake, Regulation #6-349 is not being put forth by PDE in good faith but instead to advance an anti-charter school agenda.

Again, on behalf of SusQ-Cyber Charter School, I express my strong OPPOSITION to Regulation #6-349 and I respectfully ask the members of the Independent Regulatory Review Commission (IRRC) to vote NO if/when they come before you. Thank you for your time and consideration.

Sincerely,


Patricia Leighow
Chief Executive Officer
SusQ-Cyber Charter School