

Legislature

COMMENTS OF STATE REPRESENTATIVE MARK LONGIETTI – REGULATION #3315

MEMBERS OF THE INDEPENDENT REGULATORY REVIEW COMMITTEE, THANK YOU FOR THIS OPPORTUNITY TO OFFER COMMENTS IN SUPPORT OF REGULATION #3315, PENNSYLVANIA DEPARTMENT OF EDUCATION. MY NAME IS STATE REPRESENTATIVE MARK LONGIETTI AND I SERVE AS THE MINORITY CHAIRMAN OF THE HOUSE EDUCATION COMMITTEE. I AM HERE ON BEHALF OF THE DEMOCRATIC MEMBERS OF THE HOUSE EDUCATION COMMITTEE ALL OF WHOM SUPPORT THESE FINAL FORM REGULATIONS AND SIGNED ONTO A LETTER SUBMITTED TO IRRC IN SUPPORT OF THE REGULATIONS. FURTHER, ALL OF THE DEMOCRATIC MEMBERS OF THE COMMITTEE VOTED AGAINST THE MOTION OFFERED IN COMMITTEE TO DISAPPROVE THE REGULATIONS. PLEASE LET ME SHARE OUR VIEW REGARDING THESE REGULATIONS.

REGULATION #3315 WILL PROVIDE MUCH NEEDED CLARITY TO A CHARTER SCHOOL LAW THAT IS NOW 25 YEARS OLD. THEY ARE PROMULGATED WELL WITHIN THE DEPARTMENT OF EDUCATION'S STATUTORY AUTHORITY AND THEY ARE CLEAR, REASONABLE AND IN THE BEST INTERESTS OF THE TAXPAYERS OF PENNSYLVANIA AND THE NEEDS OF OUR EDUCATIONAL SYSTEM AND THE STUDENTS IT SERVES. THEY REPRESENT OVER TWO YEARS OF WORK BY THE DEPARTMENT, WHICH REVIEWED THOUSANDS OF PUBLIC COMMENTS AND

MADE IMPORTANT REVISIONS TO ADDRESS THOSE COMMENTS. IN MANY CASES, THEY REITERATE STATUTORY LAW AND REFLECT DECISIONS OF THE CHARTER SCHOOL APPEAL BOARD.

SPECIFICALLY, THE REGULATIONS PROVIDE FOR A MODEL CHARTER SCHOOL APPLICATION WHICH SETS FORTH THE MINIMUM PIECES OF INFORMATION THAT AN APPLICANT MUST PROVIDE WHEN PROPOSING TO ESTABLISH A CHARTER SCHOOL. SERIOUS CHARTER SCHOOL APPLICATIONS SHOULD CONTAIN THESE MINIMUM REQUIREMENTS, WHICH ARE NECESSARY FOR EVALUATION BY THE HOST SCHOOL DISTRICT.

THEY ALSO BRING CLARITY TO THE ENROLLMENT PROCESS BY FLESHING OUT THE RANDOM SELECTION PROCESS. PARENTS OF PROSPECTIVE ENROLLEES, AND THE PUBLIC AT LARGE, WILL HAVE ACCESS TO THIS INFORMATION WHICH MUST BE POSTED ON PUBLICLY AVAILABLE WEBSITES. AND THE INFORMATION SUPPLIED WILL INCLUDE IMPORTANT DATA LIKE THE NUMBER OF SLOTS AVAILABLE.

THE REGULATIONS ALSO CONFIRM THAT MEMBERS OF THE BOARD OF TRUSTEES OF CHARTER SCHOOLS ARE PUBLIC OFFICIALS AND SUBJECT TO THE ETHICS ACT, AS STATED IN CURRENT LAW. IT IS IMPORTANT THAT THE REGULATIONS SPELL OUT THE NEED OF THESE OFFICIALS TO FILE ANNUAL STATEMENTS OF FINANCIAL INTEREST AND ABIDE BY THE ETHICS ACT IN THEIR

CONDUCT AND VOTING. IN TOO MANY CASES, THESE REQUIREMENTS ARE NOT BEING FOLLOWED.

THE REGULATIONS ALSO MAKE IT CLEAR THAT CHARTER SCHOOLS ARE SUBJECT TO THE SAME FISCAL MANAGEMENT AND AUDITING REQUIREMENTS AS ARE OUR SCHOOL DISTRICTS. CHARTER SCHOOLS ARE PUBLIC SCHOOLS FUNDED BY PUBLIC TAX DOLLARS. AS SUCH, THE SAME ACCOUNTABILITY AND FISCAL CONTROLS NEED TO BE IN PLACE AS ARE IN OUR SCHOOL DISTRICTS.

UNDER CURRENT LAW, CHARTER SCHOOLS CAN APPLY TO THE DEPARTMENT FOR THE REDIRECTION OF A SCHOOL DISTRICT'S STATE SUBSIDY IF THE CHARTER SCHOOL BELIEVES THAT IT HAS NOT RECEIVED REQUIRED PAYMENTS FROM A SCHOOL DISTRICT. THERE IS A BROAD CONSENSUS THAT THE REDIRECTION PROCESS NEEDS REFORMED. THE REGULATIONS AT LEAST PROVIDE FOR A 10 DAY PERIOD FOR CHARTER SCHOOLS TO BILL SCHOOL DISTRICTS SO THAT THERE IS TIME FOR A SCHOOL DISTRICT TO REVIEW THE PROPOSED CHARGES.

FINALLY, THE REGULATIONS BRING CLARITY TO CURRENT LAW REQUIRING CHARTER SCHOOLS TO PROVIDE HEALTHCARE BENEFITS TO EMPLOYEES ON THE SAME BASIS AS THE SCHOOL DISTRICT. THEY CLARIFY THAT THE SCHOOL DISTRICT REFERS TO THE DISTRICT WHERE A CYBER CHARTER SCHOOL OR

REGIONAL CHARTER SCHOOL HAS ITS ADMINISTRATIVE OFFICES, SINCE THESE TYPES OF CHARTER SCHOOLS COVER MULTIPLE SCHOOL DISTRICTS.

AS STATED, IT HAS BEEN 25 YEARS SINCE THE CHARTER SCHOOL LAW HAS BEEN ENACTED AND IT IS IN MUCH NEED OF REFORM. YET THE LEGISLATURE HAS CONSISTENTLY FAILED TO PROVIDE FOR ANY MEANINGFUL REFORM IN THAT TIME. WHILE THE PROPOSED REGULATIONS DO NOT ADDRESS MANY AREAS OF REFORM THAT THE DEMOCRATIC MEMBERS OF THE COMMITTEE WOULD LIKE TO SEE ADDRESSED, THOSE REFORMS WILL NEED TO COME THROUGH THE LEGISLATURE. HOWEVER, THE REGULATIONS BEFORE THE COMMISSION PROVIDE CLARITY TO EXISTING LAW, CODIFY DECISIONS OF THE CHARTER SCHOOL APPEAL BOARD AND ARE WITHIN THE DEPARTMENT'S STATUTORY AUTHORITY. AS SUCH, THEY PROVIDE AN IMPORTANT STEP FORWARD IN CLARIFYING THE RESPONSIBILITIES OF THE VARIOUS ENTITIES ENGAGED THROUGH THIS LAW. THEREFORE, I URGE THE COMMISSION TO APPROVE THESE REGULATIONS.



March 18, 2022

BY EMAIL ONLY (irrc@irrc.state.pa.us)
Chairman George D. Bedwick
Independent Regulatory Review Commission
14th Floor Conference Room
333 Market Street
Harrisburg PA 17101

Re: **Regulation #6-349-Charter Schools and Cyber Charter Schools**
Agency Name: Department of Education
IRRC No. 3315

Chairman Bedwick;

Please accept this joint letter on behalf of Propel Schools, Mastery Schools and KIPP Philadelphia Public Schools. Overall, these three charter school systems represent 1 in 4 students currently receiving their education in a “brick and mortar” charter school setting. We reviewed the initial regulations proposed by the Pennsylvania Department of Education (PDE) and found them to be unnecessary or an invasion of the prerogative of the General Assembly. In October 2021 we shared our concerns with PDE along with many others who expressed similar concerns with the proposed regulations. Unfortunately, PDE made no significant substantive changes worth noting to the regulations and they are now put before you for consideration. We ask you to reject these proposed regulations and in support of our request we highlight the following concerns for your consideration.

General Concerns.

The proposed regulation addresses the following general areas relating to charter school operation:

- 1.) Applications and Application Requirements
- 2.) Enrollment
- 3.) Board of Trustees
- 4.) Fiscal and Auditing Standards
- 5.) Redirection Processes, and
- 6.) School Staff-health care.

These regulations do not clarify the charter school law or enable charter schools to operate in Pennsylvania within the framework of that law, but rather these regulations impose additional requirements that are **not** contemplated in the Charter School law. Simply put, these regulations

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are different from the statutory definitions, 2.) because the regulation definitions significantly exceed the definitions in statute or 3.) the regulations contain entirely new definitions not contained in the CSL whatsoever.

The regulation proposes the adoption of the term “English learner.” Federal law defines an “English Learner” by the United States Elementary and Secondary Education Act (ESEA) section 8101 (20), as amended by Every Student Succeeds Act (ESSA). The definition contained in the regulation does not mirror the Federal definition and is therefore likely preempted by Federal law because of the inconsistency. The regulation should adopt a definition of English Learner that mirror federal law.

The proposed regulatory definitions also contain ambiguities which will make regulatory compliance difficult. By way of example, the term “authorizer” is not defined in the CSL but is defined in the regulation. The regulatory definition permits the “Department” (Pennsylvania Department of Education) to authorize cyber charter schools only, but under the CSL the “Department” may be an authorizer of a multiple charter school organization such as Propel, Mastery and KIPP. Because current law grants the Department such authority to authorize a multiple charter school organization, we believe that a regulation cannot reduce or remove that power. Perhaps more important is the fact that removing the Department as possible authorizer for a multiple charter school organization runs counter to the intent of the CSL.

Finally, the definitions in the proposed regulations may be overly broad which would also make regulatory compliance difficult. By way of example, the term “educational management services provider” includes “any...individual that enters into a contract or agreement with a charter school entity to provide educational design, business services, management, or personnel functions or to implement the charter. Under this definition, a company that provides speech therapists could be considered an “educational management service provider” as could a certified public accounting firm that was tasked with auditing the financial documents of the charter school entity. This defined term and all proposed defined terms in the regulation should be reviewed to ensure that they are not overly broad and capable of being implemented with regulatory compliance by a charter school entity.

Section 713.2: Content of Charter School or Regional Charter School Applications.

We also renew our concerns with section 713.2 of the proposed regulations because they have not substantively changed. The proposed regulation contained in Section 713.2 seeks to

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Section 713.4: Admissions Policies of Charter Schools and Regional Charter Schools

Section 713.4 addresses enrollment of students when the number of available seats at a charter school is exceeded by the number of students seeking to attend that charter school. As we stated in our comments this fall in response to the proposed regulations, transparency is something that everyone can and should support. However, §713.4(c)(2) requires a charter school to submit its policy relating to admissions be included in any renewal application of the charter school entity. No renewal application is required by law or by these proposed regulations. Section 1729-A clearly establishes the basis for a local school board of directors to nonrenew a charter school at the end of the term of the charter if it determines that the charter has engaged in noncompliance with its charter or other cause established by that section. The local school board of directors relies on the annual reports required by Section 1728-A for information relating to the decision to nonrenew a charter school charter. *Because no renewal application process is authorized by law, none can be required by a regulation and this subparagraph should be rejected.*

Section 713.8: Redirection of School District Subsidies to Charter School Entities.

§713.8(d) of the proposed regulation exceeds the requirements for redirection requests currently contained in the CSL. The proposed regulation requires that a request must be: on a form created by PDE; contain eleven (11) mandatory pieces of information about the student; limited to be submitted only between the 15th and 25th of each month; and limited to requests only for the months submitted. These requirements are inconsistent with those currently required under the CSL. *The expansion is an intrusion into the legislative function and should be accordingly rejected.*

The change to the redirection process only addresses the actions of a charter school in redirection but makes no mention of the actions of the authorizing school districts. This regulation only exacerbates a problem where the delay in redirection is due to the authorizing district failing to timely issue payments to charter schools or refusing to issue payments outright which forces a charter school to engage in redirection. This can and should only be addressed in legislation and should only add to the basis for rejecting these regulations.

Conclusion

The enabling legislation for IRRC is quite clear, part of the initial review of any proposed regulation is a determination of whether the “regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based.” As we have stated previously in our comments-these regulations do not conform to the intention of the General Assembly because the regulations restrict charter school establishment and governance.

We can agree a regulation can be adopted to implement a statute, but here the Department of Education’s proposed regulations go beyond implementation. This proposed final-form regulation unnecessarily, and in some instances confusingly, expands both departmental authority and local authorizing school district authority beyond that intended by the Charter School Law. Therefore, the proposed regulations should be rejected outright. If regulation is needed, we hope others would join our conclusion that the regulations should be redrafted in a narrower sense that implements the statutory provisions of the Charter School Law more accurately.

Respectfully Submitted;

Tina Chekan, CEO
Propel Schools

Jessica Cunningham-Akoto, CEO
KIPP Philadelphia Public Schools

Scott Gordon, CEO
Mastery Schools

cc: Senator Scott Martin
Senator Lindsey Williams
Representative Curt Sonney
Representative Mark Longietti

Philadelphia Charters for Excellence (PCE)
Public Comments on Regulation #6-349
Pennsylvania Independent Regulatory Review Commission
March 21, 2022

Thank you to the members of the Independent Regulatory Review Commission for giving me an opportunity to speak on behalf of Philadelphia Charters for Excellence (also known as PCE). My name is Scott Peterman and I am the Executive Director for PCE, which is an alliance of more than 80 public, brick-and-mortar charter schools in Philadelphia. PCE was founded in 2011 to unify the City's charter community, which educates 70,000 students under a shared commitment to accountability, equity and quality.

I traveled here today to ask that you vote NO on Regulation #6-349: Charter Schools and Cyber Charter Schools when it comes before you. Please note that I have submitted written feedback to IRRC that details the many concerns, objections, and frustrations that PCE and our member schools have in regards to these regulations.

Our greatest concern, with the totality of these regulations, is the unknown impacts they will have on Pennsylvania's public charter school community. While the PA Department of Education repeatedly states that these are meant to clarify aspects of the Charter School Law, they do nothing but create more loopholes for authorizers to manipulate, exploit and punish public charter schools. PDE failed to engage the public charter school community in the drafting and revision of these regulations, so they have no idea what intended or unintended consequences they may have.

The students that are served by Philadelphia's public, brick-and-mortar charter schools are some of our Commonwealth's most vulnerable children. They are the product of families that have been failed by our public school system for generations. Charter schools provide a chance for these students to access a quality education that they could never hope to find in a district-run school. One-third of Philadelphia's public school students are served by charter schools and demand grows each year, with more than 23,000 students sitting on charter school waitlists today.

The regulations you are considering today have the potential to do irrevocable harm to the charter school community by limiting the growth of high-quality charter schools, allowing political interests to supersede the best interests of students and cause the unnecessary closure of quality charter schools.

I am asking you to consider the public charter school community's concerns and objections. Again, I respectfully ask for you to vote NO on Regulation #6-349. Thank you.

Scott Peterman,
Executive Director
Philadelphia Charters for Excellence (PCE)

Thank you to members of the commission for the opportunity to speak today. My name is Christopher Dormer, proud to be the Superintendent of Schools of the Norristown Area School District in Montgomery County. I am here today to provide testimony on behalf of the more than 100 educational leaders across the Commonwealth of Pennsylvania, the Leaders for Educational Accountability and Reform Network (LEARN), on the Final Regulation #6-349: Charter School and Cyber Charter Schools.

LEARN is appreciative that the Department of Education has proposed important updates to regulations related to Charter Schools and Cyber Charter Schools. The superintendents and school leaders who are members of LEARN support quality public education, including the educational opportunities provided by charter schools. We believe in the rights of parents to choose what they feel is the best educational option for their children, whether that is a traditional public school, a brick and mortar charter school, a cyber charter school, or a private or parochial school. We also believe that if charter schools and cyber charter schools are going to receive public funding, as is prescribed under the Charter School Law, they should be held accountable to the same mandates as public school districts, especially in the areas of ethics, fiscal transparency, and accountability. Though LEARN supports broader reform to the 20 year old Charter School Law and we acknowledge that type of reform should occur through legislative means, we support the proposed regulations as important first steps towards providing consistency in Pennsylvania's public schools. Though our written testimony includes more details, I want to highlight several important changes that are accomplished through the proposed regulations.

The charter school application process has been a difficult one to navigate for both the charter applicants and the public school boards who review them because Charter School Law offers little guidance and no consistency as to what the process should entail. The new regulations propose a step forward by requiring charter applicants to complete and submit a standard application created by PDE or a local application created by the district. As a superintendent who has received and reviewed several applications, I appreciate the intention to try to bring standardization and consistency to the crucial step - ensuring that the charter applicant meets the requirements under CSL and is offering a quality educational program. We appreciate the commission's consideration of additional clarity noted in our written testimony to further assist both charter applicants and authorizing school districts in this process.

Fiscal transparency and accountability is of the utmost importance when public schools and charter schools receive and use public funds to operate their educational programs. The new regulations include new language related to fiscal management and audits. We strongly recommend the commission consider the highest standards be applied so that the use of public funds are appropriate and can be examined transparently. Schools have no greater responsibility than to ensure that taxpayer dollars are used for their intended purposes - the education of our children. Our written testimony provides additional details for your consideration.

Finally, we applaud the recommendation to include ethics considerations for all members of charter school boards of trustees. It is important that those individuals who are charged with the governance of schools avoid real and perceived conflicts of interest and file the same statements of financial interests as publicly elected school board directors. It is important that the same accountability and transparency practiced by the governing boards of public schools districts also becomes standard practice with the boards of charter and cyber charter schools.

I thank you for your consideration of these regulations and affording me the opportunity to provide comments today.

4 Public



March 18, 2022

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

Dear Chairman Bedwick and Honorable Commissioners,

On behalf of the Pennsylvania Coalition of Public Charter Schools' (PCPCS) brick and mortar and cyber public charter school members, as well as the close to 170,000 public charter students across the Commonwealth of Pennsylvania, PCPCS is submitting the following comments on the Pennsylvania Department of Education's (PDE) Final-Form Regulation # 6-349: Charter Schools and Cyber Charter Schools.

While PCPCS recognizes that reform is needed to the Charter School Law (CSL), the vehicle for this reform must be through the democratic legislative process and this attempt to rule by regulation is unconstitutional.

This document will focus on criterion¹ that your Commission utilizes to review proposed regulations: (1) Statutory Authority and Legislative Intent; (2) Economic Impact; (3) Public Welfare; and (4) Public Health and Safety.

We oppose this charter school regulation and we ask the Independent Regulatory Review Commission (Commission) to disapprove of this regulation.

Statutory Authority and Legislative Intent

The Secretary Ortega and PDE do not have the statutory authority to do this regulation because they have interpreted the statute too broadly and have given themselves legislative authority. This final-form regulation puts educational outcomes of Pennsylvania students at risk and circumvents the necessary and deliberative legislative process of the General Assembly. PDE is circumventing the legislative process, the final-form is far outside the realm of providing clarifications to the CSL, and creates policy changes that create new law. These changes to the CSL must be addressed through legislation via the democratic legislative process.

¹ What is IRRC?, http://www.irrc.state.pa.us/contact/what_is_irrc.cfm

The will of the People of Pennsylvania is best reflected via the member officials they have elected in the General Assembly. Reform is best conducted by the legislative process. On Tuesday, March 15, both the Pennsylvania House and Senate Education Committees voted to send letters² to this Commission, disapproving of the final-form regulation.

An example of going beyond clarifying the CSL and PDE's statutory authority includes expanding minimum requirements in charter school applications (sections 713.2) to include information that is impossible for a charter applicant to predict at the time of application submission, including the numbers of English Language Learners, special education students, and race and ethnicity of students to be served by the school. While reform is needed for the applications, this regulation oversteps the legislature. PCPCS encourages a standard uniform application and process across the Commonwealth.

Economic Impact

The final form regulation will have a detrimental economic impact on the charter school community.

One-size-does-not-fit-all in education, and that also extends to health care benefits. Though PDE did eliminate a lot from Section 713.9 on health benefits, using a charter school's administrative building in the school district it is geographically located is not workable. Charter schools should be allowed flexibility to negotiate on health care benefits offered to staff. This is an attempt to bankrupt charters, as charters already receive 25% less funding on average³, and charters cannot raise taxes/revenue to compensate for any rising costs of healthcare premiums. PDE did not conduct calculations as to the financial burden and obstacles this would cause the charter school community, particularly smaller charter schools that cannot leverage its size and staffing levels in the same manner that a school district can when negotiating benefits.

While PDE has calculated that they will save approximately \$60,000 annually with the redirection process (Section 713.8) changes, the equivalent of less than 10 minutes of its annual budget, the change does not solve the redirection disputes. These disputes involve tuitions that tally in the hundreds of thousands of dollars, amounts that have threatened the closure of charter schools due to egregious behaviors from school districts and charter schools not able to pay their bills.

Per the CSL, school districts are to make 12 equal monthly payments to charter schools; however, that is not happening. There have been lawsuits that have happened over the last several years for lack of payment. There is an "economic" as well as "public interest" to impose

² House Education Committee (Majority): <http://www.repsonney.com/News/27463/Latest-News/Education-Committee-Sends-Letter-Recommend-Disapproval-of-Charter-School-Regulations-Sonney-Says->; Senate Education Committee (Majority): http://www.trc.state.pa.us/docs/3315/COMMENTS_LEGISLATIVE/3315%2003-15-22%20SEN%20ED%20COM%20DISAPPROVAL.pdf

³ Lost Quarters, <https://www.youtube.com/watch?v=feOkzE2T1A>

regulations, but no action to focus on both sides of the public interest: public charter schools and public school districts.

The totality of the financial and economic impact of the final-form regulation on the charter school community across the Commonwealth is a mystery. The “modest costs” to the charter school community PDE claims are inaccurate and do not take into account all of the variables at play. PDE says that they have “not been provided evidence of how these regulations would negatively impact charter schools” yet they refuse to take into account evidence provided in testimony and public comment or conduct robust calculations on the negative impact on the entire public charter school community.

Additionally, Governor Wolf’s recent proposed PDE budget request⁴ to the General Assembly requests a cut of \$373 million in charter school funding. His proposal includes “savings” to school districts by cutting⁵ special education and cyber education funding. At the same time, school district surpluses are close to \$2 billion and charter schools currently receive \$3,000 less, not the same and certainly not more, per-pupil funding than district-operated schools⁶.

Public Welfare

PA public charter schools kept teaching during the pandemic. Recent enrollment numbers show that more parents are choosing charter schools. For 2020 - 2021, PA cyber and brick and mortar charter school enrollment grew by 22,696 students or 15%⁷. Now, almost 1 out of every 10 students in a public school attends a public charter school, with that number hitting 1 out of 3 students in cities such as Philadelphia. Parents voted with their feet and chose public charter schools for their students. What’s more, enrollment has almost doubled in the last 10 years.

The overall response from the charter community is negative towards this regulation. According to PDE, 223 public comments and 1,557 form letters were received during the 30-day public comment period in fall 2021. Of that count, over 1,000 comments were submitted in disapproval of this regulation. On Monday, October 18, 2021, PCPCS submitted robust comments on the proposed regulation. They can be found here⁸ and we know that IRRC has read them. The concerns and suggestions presented in our comments or those from the charter school community were largely left unaddressed and ignored in the final-form regulation.

⁴ Commonwealth Budget 2022 - 2023, February 8, 2022,

<https://www.budget.pa.gov/Publications%20and%20Reports/CommonwealthBudget/Pages/default.aspx>

⁵ PDE, Legislative Proposal Comprehensive Charter School Law Reform Savings, Estimated Charter School Reform Savings (Excel), February 8, 2022, <https://www.education.pa.gov/K-12/Charter%20Schools/CharterPolicyReform/Pages/LegisProposal.aspx>

⁶ Pennsylvania Department of Education (PDE), Summaries of AFR Data, AFR Data Files, 2018-2019

⁷ National Alliance for Public Charter Schools, “VOTING WITH THEIR FEET: A STATE-LEVEL ANALYSIS OF PUBLIC CHARTER SCHOOL AND DISTRICT PUBLIC SCHOOL ENROLLMENT TRENDS”,

<https://www.publiccharters.org/our-work/publications/voting-their-feet-state-level-analysis-public-charter-school-and-district>

⁸ PCPCS Comments on Proposed Regulation #6-349, October 18, 2021,

http://www.irc.state.pa.us/docs/3315/COMMENTS_PUBLIC/3315%2010-22-21%20PA%20Coalition%20of%20Public%20Charter%20Schools.pdf

There was no collaboration with the proposed regulated community on this rulemaking like there is supposed to be. A short 30-day public comment period in fall 2021 is not enough time for sufficient feedback on a very broad-sweeping regulation that will impact 170,000 students, students on waitlists, and their families, and school communities.

We asked for more public forums, hearings, or engagements to cultivate negotiated rulemaking collaboration with representatives of parties who will be affected significantly by the regulation. Those never happened.

The U.S. Department of Education could be used as a model⁹ to follow, where meetings are facilitated by a neutral third-party and work collaboratively with parties to come to a consensus. Once consensus is achieved, a Notice of Proposed Rule-Making (NPRM) is issued followed by a public comment period; if no consensus, the agency decides on whether to do rulemaking or not. There was no consensus reached on the proposed and now final-form regulation among all parties and this is contrary to the public interest.

PDE is the sole authorizer¹⁰ of public cyber charter schools in the Commonwealth. PDE is not a clean hands player in this process. At the Senate Appropriations Hearing on the PDE proposed 2022 - 2023 budget¹¹, PDE confirmed that 11 of 14 cyber charter schools are still up for renewal and PDE blamed new applications and a small staff for the delay.

Public Health and Safety

This final-form regulation may lead to additional closures of schools, many of whom are small, single site, minority operated and attended charter schools. This will reduce not increase school choice options for families, as well as disrupt continuity of student learning, communities, and families. When it comes to the health, safety, and welfare of our students, some of the top issues why parents choose charter schools for their children, this regulation could place students back into a bad situation that is not in their best interest. This regulation could also create a strain on other educational entities and schools receiving these displaced students, which has an impact on all of our Commonwealth students. Additionally, a study in New York found that public charter schools generally report substantially fewer school safety problems than district-run schools¹².

Again, no calculations or substantial analyses were conducted by PDE on this matter in the final-form.

⁹ U.S. Department of Education, The Negotiated Rulemaking Process for Title IV Regulations - Frequently Asked Questions, <https://www2.ed.gov/policy/highered/regs/hearulemaking/hea08/neg-rce-faq.html>

¹⁰ PDE, <https://www.education.pa.gov/K-12/Charter%20Schools/Pages/default.aspx>

¹¹ Senate Appropriations Hearing on the PDE proposed 2022 - 2023 budget, March 10, 2022, <https://www.pasenate.gov.com/blog/department-of-education-part-1/> and <https://www.pasenate.gov.com/blog/department-of-education-part-2/>

¹² Corey A. DeAngelis, "Multiple Studies Find Charter Schools Are Safer Than District-Run Schools", Reason Foundation, <https://reason.org/commentary/multiple-studies-find-charter-schools-are-safer-than-district-run-schools/>

Public charter schools serve a majority of minority students as well as economically disadvantaged students. This regulation could result in regulating charter schools right out of the marketplace of educational choice options for PA students, including the most vulnerable.

This regulation could have a negative impact on minority operated charter schools and make it harder, and possibly impossible, for new schools to open.

Conclusion

This regulation must eschew picking winners and losers in K-12 public education. This final-form regulation would harm the 170,000 Pennsylvania students enrolled in public charter schools and the tens of thousands of students who are on a waitlist to attend one of these schools.

“The Department does not anticipate any greater cost or adverse effect to the charter school entity community as a whole, because of this final-form rulemaking” – there is not enough calculations or analyses by PDE in the final-form to come to this conclusion and this does not reflect the comments from the public.

We must ensure that all students, regardless of their socioeconomic backgrounds and school enrollments, get the taxpayer funding afforded them by current law. This regulation misses that mark, which is why the Wolf Administration (executive branch) should work with the elected officials in Harrisburg (legislative branch) to pass legislative reforms that help both public district schools and public charter schools, and do not harm our public education system and our students.

Therefore, PCPCS respectfully requests the Commission to exercise your independence to disapprove of the Pennsylvania Department of Education’s Final-Form Regulation # 6-349: Charter Schools and Cyber Charter Schools.

Thank you for considering our request and for the opportunity to provide public comment.

Sincerely,

Jean Morrow
Manager of Public Affairs and Policy
Pennsylvania Coalition of Public Charter Schools
PO Box 955
Hershey, PA 17033
www.pacharters.org

cc. The Honorable Jake Corman, Senate President Pro Tempore
The Honorable Kim Ward, Senate Majority Leader
The Honorable Jay Costa, Senate Minority Leader
The Honorable Patrick Browne, Majority Chairman - Senate Appropriations Committee
The Honorable Vincent Hughes, Minority Chairman - Senate Appropriations Committee
The Honorable Scott Martin, Majority Chairman - Senate Education Committee
The Honorable Lindsay Williams, Minority Chairman - Senate Education Committee
The Honorable Bryan Cutler, Speaker of the House
The Honorable, Kerry Benninghoff, House Majority Leader
The Honorable Joanna McClinton, House Minority Leader
The Honorable Donna Oberlander, House Majority Whip
The Honorable Jordan A. Harris, House Minority Whip
The Honorable Stan Saylor, Majority Chairman - House Appropriations Committee
The Honorable Matthew Bradford, Minority Chairman - House Appropriations Committee
The Honorable Curt Sonney, Majority Chairman - House Education Committee
The Honorable Mark Longietti, Minority Chairman - House Education Committee



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Public

Thank you very much for allowing me to testify today.

Education Voters of PA is a statewide, nonprofit, nonpartisan advocacy organization that supports strong public schools in every community in the commonwealth. Our organization most enthusiastically supports the proposed regulation 6-349: Charter Schools and Cyber Charter Schools, which clarifies elements that are already in Pennsylvania's Charter School Law to improve accountability, equity, quality, and transparency.

This regulation is the end result of a long, thoughtful, and inclusive process that has taken into consideration thousands of stakeholder comments submitted since an Advance Notice of Proposed Rulemaking was first posted in August of 2019.

I will highlight a few key issues in this testimony.

Fiscal Management and Audit Requirements

Charter schools are public schools that received nearly \$3 billion tax dollars in 2020-2021. It is reasonable for these public schools to be required to follow the same generally accepted standards of fiscal management and audit requirements as school districts. The Pennsylvania Department of Education should be able to review their financial records in the same way that they review the records of other public schools.

Requirements for Board of Trustees

The trustees of charter schools should be held to the same basic ethical standards that already apply to school districts. Trustees of charter schools should be required to disclose and abstain from any conflicts of interest. And individuals who violate the public trust and use their position as a public school trustee for personal financial gain should face penalties as proscribed elsewhere in Pennsylvania law.

Application requirements

The proposed minimum charter application requirements will allow charter authorizers to hold prospective charter schools to high academic, fiscal, and administrative standards and help authorizers ensure charter schools are prepared to equitably serve all students.

Enrollment

Finally, proposed regulation 6-349 would make clarifications that take a step toward ensuring that charter schools are equitably and inclusively educating all students, just like school districts. Charter admissions policies and enrollment data should be publicly posted and discriminatory enrollment practices should be ended to ensure all students who want to attend a charter school have equal access to the enrollment process.

The proposed regulation requires a charter school's random selection process to be posted on the school's website in a manner that is accessible to families with limited English proficiency and disabilities. This both clarifies the law and benefits students and families by helping ensure that students cannot be discriminated against in the admission process based on intellectual or physical ability or disability or limited English proficiency.

We most strongly encourage you to approve this regulation. Thank you for your time.

Susan Spicka, Executive Director, Education Voters of PA

Regulation #6-349: Charter Schools and Cyber Charter Schools**IRRC March 21, 2022 Hearing****Public Comment**

From: Sidney M. Clark, PCSBA
Business Manager/Board Secretary
Shanksville-Stonycreek School District
PA School Business Officials (PASBO) member
PA School Board Association (PSBA) member

Good Morning. My name Sidney Clark, and I am in my fifteenth (15th) year as the Business Manager/Board Secretary for the Shanksville-Stonycreek School District located in rural Somerset County. I have been asked to speak on behalf of the small, rural schools in Pennsylvania.

Shanksville-Stonycreek School District is the fifth (5th) smallest district in the Commonwealth in student size. We currently serve about 280 Pennsylvania students doing all we can to provide the best learning opportunities we can with the eighth (8th) smallest budget among public school districts.

As a computer systems analyst and hardware technician, I regularly said nothing manmade is perfectly made and will break eventually. This is true even with the Commonwealth of Pennsylvania law that has been passed by our current house and senate since 1682 when they started. This also true for regulations this Governor and those in the past have presented and have approved by this body.

Do I believe and support these current proposed regulations to be the absolute answer to fixing the clear issues with charter and cyber charter schools? NO. Do I believe there are some good pieces in these regulations that are needed? YES. Again, they are not perfect, but could very well be a step in the right direction.

Both the House and Senate Education Committees have submitted letters in objection to these regulations. Why? Mainly because they feel that these changes should be done through legislation that should pass through both of their voting bodies. However, in the fifteen (15) years a business manager, I have yet to see any major charter school reform come out of both legislative bodies for the governor to sign.

Overall, it seems that no one involved in charter schools are willing to realize the issues with the current charter school law and regulations and are willing to do anything about changing them. Legislation that has started out in either the house or senate ends up never making it to

the finish line because legislators are not truly concerned about the Commonwealth's bottom line and the other entities they help fund like public education. Maybe it is best these regulations are passed in order to help bring all parties to the table to work on more complete reform that benefits every student in the Commonwealth.

The PA School Code, Title 22 Chapter 4 Section 4.3 defines a school entity as a local public education provider (for example, public school district, charter school, cyber charter school, AVTS or intermediate unit). Out of these five (5) entities listed, only three (3) of them are required to play in the same sandbox following the same set of rules. The other two, charter and cyber charter schools, each have their own sandbox each with a different set of rules. Charter schools report to local school boards. Cyber Charters report directly to PDE. So, the question to this body, the House, Senate and the Governor is if all five (5) entities are considered school entities by school code and serve the same purpose to educate the children of our great Commonwealth, then why doesn't all five (5) entities have to follow the same set of rules? The only thing that all five (5) entities have in common at this point is that they are defined in school code as non-profit entities.

They should all have the same financial responsibilities and rules to follow. Full, complete transparency is not only necessary but is required since all five (5) school entities are using Commonwealth of Pennsylvania tax dollars. No school entity should be allowed to spend directly or indirectly earned PA tax dollars on noneducational items like any form of public advertising or overpaying for a "for profit" management company to run their school.

I have many esteemed colleagues that can sit here and tell you about their total costs and the number of students they have lost as a result of charter and cyber charter schools. We can easily boil it all down to the primary issue that I want to focus on today. That key issue is the unit cost we all deal with or the tuition rate applied to each student.

The current charter school law allows for a separate tuition rate to be calculated for each public school district on the PDE-363 form. This means instead of one tuition rate being paid by every student, there are 500 different tuition rates. Does that make sense when a private school charges the same tuition rate for every student that attends their school? Does that make sense when a public school district has to charge the same tuition rate for all students defined by the year PDE-2061 tuition calculation regardless of which public school district they come from?

Again, I remind you that Shanksville is the fifth smallest public school district in student population, but did you also know that Shanksville has the 4th highest charter school tuition rate in the Commonwealth at over \$19,500 per student for the 2021-2022 year. The lowest rate PDE has on record for 2021-2022 is just over \$8,900. These numbers and others I will be referring to are included in the supplemental information packet included with my testimony.

\$19,500 compared to \$8,900 for the same education being provided for two (2) students in the same class from two (2) different school districts. Why does the same education being provided

to all of the students in the same classroom cost Shanksville-Stonycreek School District more than double another district in PA? That is state and local tax dollars being spent at two different amounts for the same education. Talk about a "real" fair funding issue.

I mentioned the PDE-2061 tuition calculation that PDE uses to determine the defined elementary and secondary tuition rates that a public school district can charge a student living outside district's boundaries to attend that public school district. Shanksville's PDE-2061 tuition rate 2020-2021 was \$13,908.48 for an elementary student compared to the \$19,500 for a charter or cyber charter school student. How does a cyber charter school cost over \$5,000 more to attend a school with no transportation or a brick and mortar building to maintain to house all their students? This cost differential has been around \$5,000 each of the last five (5) fiscal years.

Let's look at special education. Charter and cyber schools are incentivized to label a student as special education to increase these ridiculous tuition rates even more. Current charter school law separates special education costs creating a second tuition rate for these students. Current charter school law states that a school district's special education cost can only be divided by 16% of the student population in the district to create this second tuition rate regardless of the actual special education student population. Shanksville's current special education is almost twenty-five (25%) percent.

So, yes, the charter school reform regulations being proposed is a start, a baby step start. There are many more steps needing taken in regards to charter school reform. The tools to make it happen are there. Many are in the numbers I have shared with my written testimony to this body. You want help, just ask. I am a firm believer in not reinventing the wheel from scratch. Just taking what we have and making it better. Please consider approving these regulations as that first baby step in hope that many more will follow in the right direction.

As I close, I feel I need to make this final clarification for everyone listening. I believe every student learns differently. There are students who will thrive in cyber charter schools or charters schools over most public school districts. However, many people do not realize that there is a clear distinction between charter school reform and school choice. I am not here to combat school choice. I believe it has made everyone in public education force themselves to live up to their fullest potential each and every school day. Charter school reform is necessary and required as much as school choice to ensure everyone.

Years ago when I ran for school board, my motto was "What is Best for Kids." I still live by the at motto in position every day as a school business manager. All I want to do is what is best for all Commonwealth of Pennsylvania kids, whether they are Shanksville-Stonycreek School District kids, my own six (6) children, public or private students or even charter or cyber charter students. They are all our future. Thank you and God bless.



**SHANKSVILLE-STONYCREEK SCHOOL DISTRICT
CHARTER SCHOOL REGULATIONS TESTIMONY
SUPPORTING DOCUMENTS
MARCH 21, 2022**

SHANKSVILLE-STONYCREEK SCHOOL DISTRICT

- Overview of the District
 - o ADM Review
 - 5th smallest district in student population PA
 - o Aid Ratio Review
 - Market Value Aid Ratio – 0.1
 - 1 of 24 SDs with .1, lowest rate possible
 - 1 of 2 in Somerset County
 - Personal Income Aid Ratio – 0.5374
 - Lowest in Somerset County
 - Market Value/Personal Income Aid Ratio – 0.2749
 - Lowest in the area (36th lowest overall)
 - 464th in line for state monies
 - o Revenues (2021-2022 counting all ESSER monies)
 - 55% local
 - One of highest percentages in the area
 - 8% state
 - 7% Federal
 - o Charter School number
 - Greatly improved over the last 5 years
 - Improvements to our Blended In-House Cyber program
 - < 5 Charter School Students each of last 5 years
 - More In-House Cyber in the past 3 years than Charter
 - o Disparity in Tuition Rates under the current system
 - Top to Bottom Comparison
 - 4th highest regular education tuition rate
 - From lowest regular ed rate to highest – 166.89%
 - From Lowest special ed rate to highest – 208.46%
 - Regional Comparison
 - Highest tuition rate in the region as the next to smallest district
 - From lowest regular ed rate to highest – 200.82%
 - From Lowest special ed rate to highest – 142.83%
 - SSSD Tuition Comparisons
 - PDE-2061 elementary and secondary tuition rates
 - o Blended special education costs
 - Growth of all rates over 12 year period
 - Special Education population
 - Dec 1 IEP count comparison to 16% PDE-363 calculation

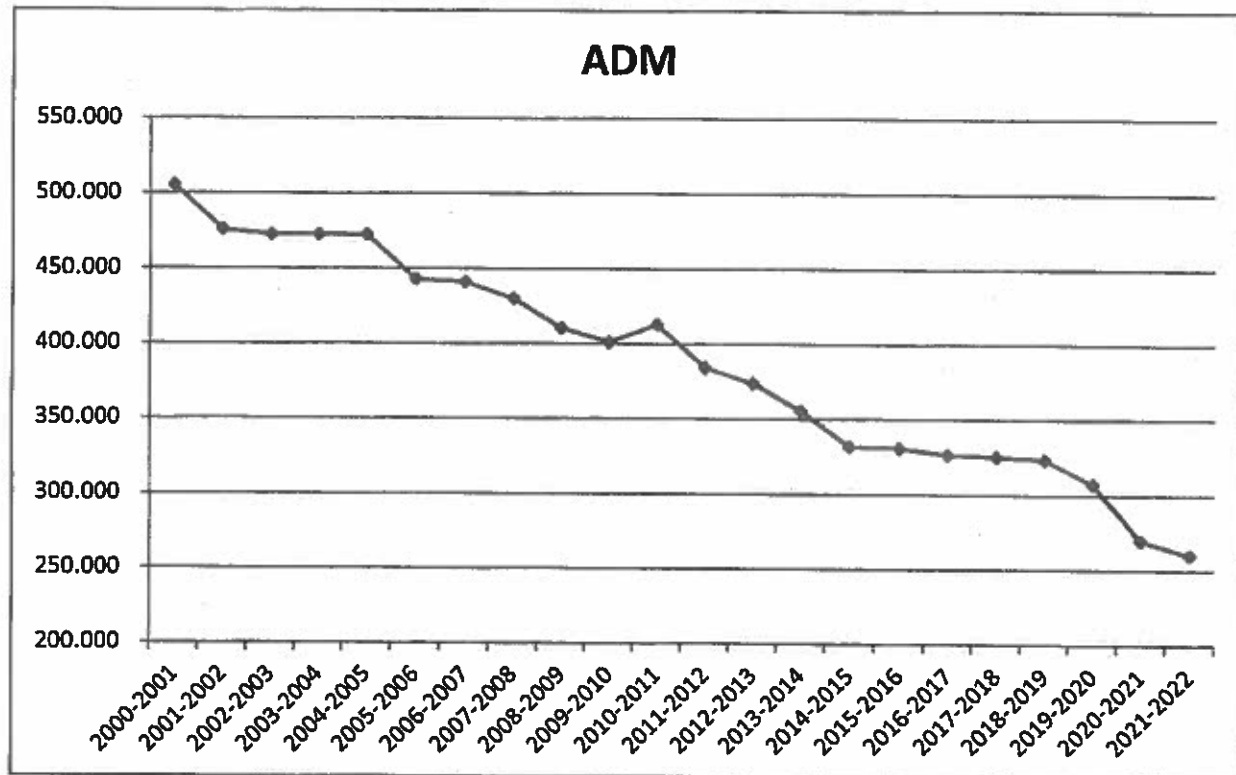
**2019-2020 ADMs PER DISTRICT
PROVIDED BY PDE
SMALLEST SCHOOL DISTRICTS**

School District	County	2019-20 Average Daily Membership (ADM)	2021-22 MV/ PI Aid Ratio
1 Bryn Athyn SD	Montgomery	1.000	0.1500
2 Austin Area SD	Potter	156.187	0.5045
3 Harmony Area SD	Clearfield	254.235	0.6701
4 Salisbury-Elk Lick SD	Somerset	268.511	0.5622
5 Shanksville-Stonycreek SD	Somerset	307.295	0.2749
6 Turkeyfoot Valley Area SD	Somerset	308.741	0.5256
7 Galetton Area SD	Potter	347.231	0.4284
8 Forbes Road SD	Fulton	380.148	0.6087
9 Shade-Central City SD	Somerset	381.510	0.6575
10 Midland Borough SD	Beaver	383.963	0.8025
11 Oswayo Valley SD	Potter	403.090	0.7045
12 Jamestown Area SD	Mercer	439.591	0.5825
13 Forest Area SD	Forest	439.679	0.3125
14 Fannett-Metal SD	Franklin	461.526	0.4355
15 Commodore Perry SD	Mercer	465.928	0.6346
16 Avella Area SD	Washington	503.537	0.5196
17 Williamsburg Community SD	Blair	505.229	0.7289
18 Northern Potter SD	Potter	530.351	0.6080
19 Cameron County SD	Cameron	549.857	0.6760

ADMs Comparison Shanksville-Stonycreek SD

School Year	ADM
2000-2001	504.986
2001-2002	475.284
2002-2003	472.227
2003-2004	472.226
2004-2005	472.026
2005-2006	442.482
2006-2007	440.442
2007-2008	429.708
2008-2009	410.118
2009-2010	400.733
2010-2011	412.710

School Year	ADM
2011-2012	383.835
2012-2013	373.500
2013-2014	355.329
2014-2015	331.821
2015-2016	330.792
2016-2017	326.338
2017-2018	325.353
2018-2019	323.542
2019-2020	307.295
2020-2021	269.636
2021-2022	260.000 estimated



**2021-2022 AID RATIOS PER DISTRICT
PROVIDED BY PDE**

School District	2019-20 WADM	2021-22 Market Value (MV) Aid Ratio	Personal Income (PI) Aid Ratio	2021-22 MV/ PI Aid Ratio	
1 Bryn Athyn SD	1.360	0.1000	0.1000	0.1500	* < 600 ADM
2 Colonial SD	6,188.177	0.1000	0.1000	0.1500	
3 Council Rock SD	12,556.577	0.1000	0.1000	0.1500	
4 Great Valley SD	5,310.251	0.1000	0.1000	0.1500	
5 Lower Merion SD	10,217.817	0.1000	0.1000	0.1500	
6 Marple Newtown SD	4,019.207	0.1000	0.1000	0.1500	
7 New Hope-Solebury SD	1,635.903	0.1000	0.1000	0.1500	
8 Palisades SD	1,875.851	0.1000	0.1387	0.1500	
9 Pequea Valley SD	1,752.044	0.1000	0.1677	0.1500	
10 Quaker Valley SD	2,270.515	0.1066	0.1000	0.1500	
11 Radnor Township SD	4,488.790	0.1000	0.1000	0.1500	
12 Rose Tree Media SD	4,557.014	0.1000	0.1000	0.1500	
13 Tredyffrin-Easttown SD	8,413.547	0.1000	0.1000	0.1500	
14 Unionville-Chadds Ford SD	4,642.032	0.1000	0.1000	0.1500	
15 Upper Dublin SD	4,807.051	0.1773	0.1000	0.1500	
16 Upper Merion Area SD	4,958.876	0.1000	0.1000	0.1500	
17 West Chester Area SD	14,901.815	0.1000	0.1000	0.1500	
18 Wissahickon SD	5,721.897	0.1000	0.1000	0.1500	
19 Springfield Township SD	3,021.388	0.1492	0.1736	0.1589	
20 Hatboro-Horsham SD	5,470.856	0.1193	0.2507	0.1717	
21 State College Area SD	8,379.107	0.1000	0.2897	0.1758	
22 Central Bucks SD	21,222.270	0.1526	0.2175	0.1785	
23 Fox Chapel Area SD	4,854.572	0.2394	0.1000	0.1836	
24 Methacton SD	5,522.435	0.2068	0.1503	0.1841	
25 Southern Lehigh SD	3,799.348	0.2082	0.1823	0.1978	
26 Montour SD	3,571.893	0.1910	0.2247	0.2044	
27 Eastern Lancaster County SD	3,509.789	0.1311	0.3190	0.2062	
28 Mars Area SD	3,953.537	0.2565	0.1534	0.2152	
29 North Penn SD	15,280.105	0.1549	0.3259	0.2232	
30 Haverford Township SD	7,467.729	0.2721	0.1607	0.2274	
31 Phoenixville Area SD	5,211.003	0.2798	0.1528	0.2289	
32 West Greene SD	776.186	0.1000	0.4282	0.2312	
33 Pittsburgh SD	29,812.982	0.2698	0.2522	0.2626	
34 Allegheny Valley SD	1,078.199	0.3047	0.2059	0.2651	
35 Saucon Valley SD	2,662.686	0.2930	0.2473	0.2747	
36 Shanksville-Stonycreek SD	346.569	0.1000	0.5374	0.2749	* < 600 ADM
37 Sullivan County SD	751.644	0.1000	0.5394	0.2757	
38 Garnet Valley SD	5,451.276	0.2106	0.3771	0.2771	
39 Peters Township SD	4,629.328	0.3517	0.1772	0.2818	
40 Pine-Richland SD	5,267.287	0.3912	0.1182	0.2819	

**CHARTER/BLENDED
STUDENT COMPARISON
SHANKSVILLE-STONYCREEK SCHOOL DISTRICT**

	Charter		SSSD
	Regular	Special	Blended
2011-2012	13		
2012-2013	13	1	
2013-2014	12	1	
2014-2015	12	2	4
2015-2016	4		6
2016-2017	2		4
2017-2018	6		2
2018-2019	4		2
2019-2020	1		3
2020-2021	3		24
2021-2022	3		14

**2021-2022 CHARTER TUITION RATES
PROVIDED BY PDE
SMALLEST SCHOOL DISTRICTS**

School District	County	2021-22 Nonspecial Education Expenditure per ADM	2021-22 Special Education Expenditure per ADM
1 New Hope-Solebury SD	Bucks	\$23,798.97	\$54,302.57
2 Lower Merion SD	Montgomery	\$22,279.56	\$57,371.05
3 Palisades SD	Bucks	\$21,232.93	\$49,661.04
4 Shanksville-Stonycreek SD	Somerset	\$19,257.55	\$29,410.65 * < 600 ADM
5 Fox Chapel Area SD	Allegheny	\$19,155.88	\$37,791.61
6 Allegheny-Clarion Valley SD	Clarion	\$19,020.39	\$43,188.25
7 Radnor Township SD	Delaware	\$18,990.94	\$45,662.73
8 Quaker Valley SD	Allegheny	\$18,885.84	\$35,958.27
9 Pequea Valley SD	Lancaster	\$18,675.79	\$38,928.53
10 Wallenpaupack Area SD	Pike	\$18,597.23	\$38,651.55
11 Farrell Area SD	Mercer	\$18,086.66	\$43,842.08
12 Upper Merion Area SD	Montgomery	\$17,953.06	\$40,257.33
13 Brandywine Heights Area SD	Berks	\$17,710.64	\$39,935.75
14 Pittsburgh SD	Allegheny	\$17,691.82	\$42,569.95
15 Union SD	Clarion	\$17,673.20	\$36,005.40
16 Chichester SD	Delaware	\$17,655.65	\$46,332.83
17 Hatboro-Horsham SD	Montgomery	\$17,170.99	\$40,342.51
18 Western Wayne SD	Wayne	\$17,129.12	\$38,518.12
19 Avella Area SD	Washington	\$16,984.96	\$28,420.92
316 North Schuylkill SD	Schuylkill	\$9,842.93	\$22,136.23
317 Altoona Area SD	Blair	\$9,589.35	\$21,222.34
318 Reading SD	Berks	\$9,557.29	\$25,678.18
319 Greater Nanticoke Area SD	Luzerne	\$9,283.89	\$26,884.59
320 Hazleton Area SD	Luzerne	\$8,917.04	\$18,599.48
Lowest to Highest Difference		166.89%	208.46%
Highest Tuition Rate		\$23,798.97	\$57,371.05
Lowest Tuition Rate		\$8,917.04	\$18,599.48

**2021-2022 CHARTER TUITION RATES
PROVIDED BY PDE**

Rank	School District	County	2021-22 Nonspecial Education Expenditure per ADM	2021-22 Special Education Expenditure per ADM
4	Shanksville-Stonycreek SD	Somerset	\$19,257.55	\$29,410.65 * < 600 ADM
102	Meyersdale Area SD	Somerset	\$13,914.04	\$26,297.49
113	Somerset Area SD	Somerset	\$13,660.77	\$27,131.88
119	North Star SD	Somerset	\$13,569.87	\$24,345.04
128	Salisbury-Elk Lick SD	Somerset	\$13,419.30	\$21,219.68 * < 600 ADM
155	Tussey Mountain SD	Bedford	\$13,035.05	\$26,789.45
175	Windber Area SD	Somerset	\$12,824.63	\$27,046.36
183	Bellwood-Antis SD	Blair	\$12,684.75	\$22,396.21
191	Portage Area SD	Cambria	\$12,611.16	\$22,259.88
209	Conemaugh Township Area SD	Somerset	\$12,387.90	\$24,266.86
223	Berlin Brothersvalley SD	Somerset	\$12,214.97	\$21,600.29
231	Central Cambria SD	Cambria	\$12,053.31	\$25,032.99
233	Blacklick Valley SD	Cambria	\$11,989.10	\$29,505.61 ** #1 Spec Ed
256	Bedford Area SD	Bedford	\$11,592.96	\$22,515.58
262	Northern Bedford County SD	Bedford	\$11,384.08	\$24,604.86
270	Richland SD	Cambria	\$11,290.45	\$20,657.68
277	Hollidaysburg Area SD	Blair	\$11,193.25	\$23,148.86
286	Penn Cambria SD	Cambria	\$11,012.44	\$25,707.60
289	Tyrone Area SD	Blair	\$10,969.17	\$21,142.64
317	Altoona Area SD	Blair	\$9,589.35	\$21,222.34
			200.82%	142.83%
	Cambria Heights SD	Cambria		
	Chestnut Ridge SD	Bedford		
	Claysburg-Kimmel SD	Blair		
	Conemaugh Valley SD	Cambria		
	Everett Area SD	Bedford		
	Ferndale Area SD	Cambria		
	Forest Hills SD	Cambria		
	Greater Johnstown SD	Cambria		
	Northern Cambria SD	Cambria		
	Rockwood Area SD	Somerset		
	Shade-Central City SD	Somerset		
	Spring Cove SD	Blair		
	Turkeyfoot Valley Area SD	Somerset		
	Westmont Hilltop SD	Cambria		
	Williamsburg Community SD	Blair		

Shanksville-Stonycreek School District
PDE-363 and PDE-2061 Comparisons

	School Year	ADM	PDE-363		PDE-2061	
			Regular Ed	Special Ed	ELEMENTARY TUITION	SECONDARY TUITION
	2008-2009	410.118	\$ 9,164.43	\$ 16,989.84	\$ 8,738.13	\$ 9,499.57
	2009-2010	400.733	\$ 9,872.61	\$ 17,117.17	\$ 8,917.34	\$ 9,928.43
	2010-2011	412.710	\$ 10,606.34	\$ 17,551.99	\$ 10,299.28	\$ 10,706.48
	2011-2012	383.835	\$ 10,285.25	\$ 15,452.53	\$ 10,510.58	\$ 10,723.16
	2012-2013	373.500	\$ 10,747.52	\$ 15,770.35	\$ 10,200.47	\$ 11,074.19
	2013-2014	355.329	\$ 10,198.75	\$ 15,841.83	\$ 9,741.22	\$ 10,994.79
	2014-2015	331.821	\$ 12,108.75	\$ 19,279.26	\$ 11,428.63	\$ 12,810.49
	2015-2016	330.792	\$ 13,475.99	\$ 21,572.34	\$ 12,077.26	\$ 12,174.98
	2016-2017	326.338	\$ 14,169.53	\$ 22,064.27	\$ 12,121.52	\$ 14,138.81
#5/#101	2017-2018	325.353	\$ 17,278.38	\$ 27,865.95	\$ 12,419.52	\$ 14,539.07
#11/#128	2018-2019	323.542	\$ 17,507.16	\$ 28,226.14	\$ 12,620.09	\$ 15,988.40
#11/#126	2019-2020	307.295	\$ 17,305.41	\$ 28,497.97	\$ 12,355.61	\$ 15,832.03
#5/#91	2020-2021	269.636	\$ 19,502.57	\$ 32,786.69	\$ 13,908.48	\$ 17,404.16
#4/#154	2021-2022	260.000	\$ 19,257.55	\$ 29,410.65		
14-YEAR TREND		-25.07%	110.13%	73.11%	41.40%	66.66%

**Testimony on the Final Form Regulations from the PA Department of Education
22 PA CODE CH 713 Charter Schools and Cyber Charter Schools - #6-349
March 21, 2022**

My name is Tomea Sippio-Smith, and I am the K-12 Education Policy Director at Children First. I am here today to testify in support of the final form charter school regulations #6-349.

Let me begin by underscoring the fact that existing charter schools will not be affected by the proposed modifications to the application process. Section 173.2(c) of the regulations stipulates that currently authorized charter schools do not need to reapply. This means these regulations only affect new entities, not existing charter schools.

In fact, nothing in the regulations goes beyond what is enumerated in Pennsylvania's Charter School Law. The regulations simply clarify the language and standards that are often codified in the statute or that are unclear or imprecise, all in keeping with the original legislative intent of the statute.

The intent of Pennsylvania's charter school law as adopted in 1997 is to promote innovation and experimentation. However, aside from adding language in 2002 to launch a new cyber charter sector, Pennsylvania's law is unchanged in nearly 25 years. The regulations are not an attempt to circumvent the legislature but instead a much-needed clarification Pennsylvania's Charter School Law.

Consider the example of the application content regulations for new entities applying for charters. Applications used by charter school authorizers have become less uniform over the last 25 years and in many cases are missing information needed to accurately assess an applicant's ability to deliver an innovative educational program.

The regulations address this issue by clarifying the statutory requirements in section 1719-A of the PA Charter School Law. For example, the statute currently requires applicants to indicate whether their facility will be leased or owned. The regulations simply spell out that the standard of proof is a deed or signed lease agreement. This is not breaking new ground but instead clarifying existing law.

Further, the regulations specify that any school that has submitted an application prior to November 15, 2022, is exempt from the new application requirements.

Current charter schools will, in fact, benefit by having a consistent framework to grow their operations. The bottom line is that the application regulations will foster innovation by giving authorizers better tools to screen out new applicants with a substandard track record.

The proposed change to the random selection process is another example of how the regulations clarify, but do not go beyond the law. Section 1723-A of the PA Charter School Law established a lottery, stating “if more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants.” The regulation clarifies the law and ensures that parents and others can access this policy by requiring it to be posted on the charter application, student application, website.

The regulations also standardize the way that demographic data is reported using the student groups adopted by the federal government. Making the data comparable will make it possible to assess how the random selection policies are working. This much needed transparency will increase competition in the charter school sector and is also consistent with the intent of the statute.

In conclusion, these proposed regulations are a much-needed step to update the state’s antiquated charter school law. Accordingly, I support these regulations.

Thank you for allowing me to testify.

Remarks not submitted
in advance by

8

Public



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9 Public

Statement of Sharon Ward to the Independent Regulatory Review Commission on regulation #6-349 March 21, 2021

Thank you for the opportunity to speak. My name is Sharon Ward - I am the senior policy advisor for the Education Law Center. ELC is a non-profit legal advocacy organization that works to ensure access to a quality public education for all students in Pennsylvania, with a particular focus on underserved student populations.

The Education Law Center supports the proposed regulation and urges its adoption.

Over the past several years I have worked with a number of school districts and have had the opportunity to take an in-depth look at charter and law and regulation across the country.

Pennsylvania's charter school law was adopted in 1997 and is based on a model law that was common across the states enacting charter laws in the 1990s. At that time states had little concrete experience with charter schools and the laws were vague. Consequently, many states have developed regulatory structures or have updated their laws to address deficiencies in laws drafted based on an untested concept.

Pennsylvania's law is due for an update, but in the absence of legislative reforms these regulations will begin to address some of the most serious deficiencies in practices that have developed over the past 25 years.

To be clear, Pennsylvania is not breaking any new ground. Because of the similarity of state laws and the non-profit governance structure that is the norm in charter schools, the problems that these regulations seek to address are endemic to the sector and other states laws and regulations have become increasingly prescriptive to address these deficiencies. As an example, I would point to West Virginia which is the latest state to permit charter schools.

ELC supports the provisions related to boards of trustees and fiscal operations because they will begin to improve transparency and strengthen financial operations. The regulations enumerate a minimum standard and are not a burden to implement. High quality charters already follow these guidelines and charter management companies that work in other states already must meet standards that are more stringent than those proposed here.

ELC works to ensure that all students, including English learners, students of color, students with disabilities, economically disadvantaged students, LGBTQ youth and students with system involvement have the same access to charter schools as other students, and that charter schools are prepared to meet the needs of all students as required under federal and state law.

The regulation will help to close the gap between the promise of charter schools and the reality.

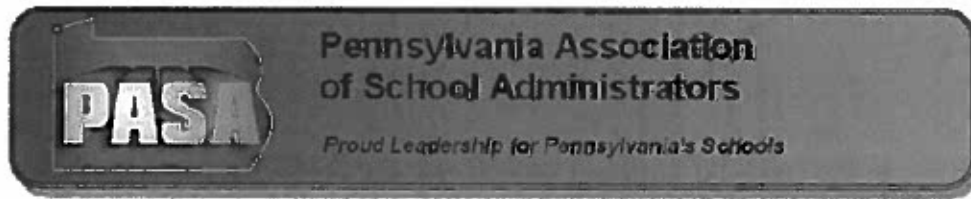
Through both our own case examples and data analysis, we have seen clear disparities in access to charter schools for students with significant disabilities and we frequently represent parents whose charter school of choice has told them they cannot meet their child's need despite the requirement to do so. The regulation rectifies this problem in two ways.

Ensuring that all of Pennsylvania's children have equal access to a quality public education.

A special education plan should not be an afterthought, but unfortunately that is the case in many charter school applications. The regulation specifies that a plan be provided which will help authorizers determine if an applicant has the capability of providing comprehensive learning experiences to students.

The random selection provisions will improve student choice and create no additional burden to families. Posting disaggregated enrollment data will help to identify and root out discriminatory enrollment practices.

Thank you for your attention.



To: The Pennsylvania IRRC
From: The Pennsylvania Association of School Administrators
Mark DiRocco, Executive Director
Re: Comments on Regulation #6-349, IRRC #3315
Date: March 18, 2022

The Pennsylvania Association of School Administrators (PASA) represents approximately 900 school superintendents, assistant superintendents, intermediate unit executive directors, intermediate assistant executive directors, and other school leaders across the state.

PASA believes that changes to the current charter school regulations are long overdue. The law is approximately 25 years old, and many issues have occurred over the years that need to be addressed that would be of benefit to the charter schools and school districts. PASA supports the proposed updates to the Pennsylvania Charter School Regulations #6-349 for the following reasons:

1. The proposed regulations implement better requirements for applications to open a charter school, allowing school districts authorizing brick and mortar charter schools and PDE authorizing cyber charter schools to hold the schools to high academic, fiscal, and administrative standards. We believe it is imperative that parents and taxpayers know that charter schools are held to the same standards as school districts and are accountable to the taxpayers.
2. We believe it is important that charter schools post their non-discrimination enrollment policy on their website and in the student application, so families and taxpayers know how admission preferences are considered and weighted.
3. We applaud the requirement that charter school trustees are subject to the state's Public Official and Employee Ethics Act. School directors and other school officials have long been required to comply with this act for sound ethical reason, and we support the application of this law to charter school trustees in to ensure the public that charter school governance is conducted in an open and ethical manner. We find it difficult to believe that anyone would be in opposition to this change.
4. The proposed regulations require charter schools to use common accounting principles and auditing standards as required by school districts. This will make reviewing annual reports and financial records easier for parents, community members, school district officials, PDE, and the general public.
5. The redirection process is much improved providing a ten business day timeline for school district to respond to a payment request by the charter schools. It further requires charter schools to submit an accurate enrollment report to the district ten days prior to the payment deadline to allow time to validate the enrollment and tuition bill for each student. This is an important accounting process for both charter schools and school districts to ensure taxpayers that payment of tax dollars to charter school entities is accurate. School districts should pay charter schools the

appropriate amount of student tuition in a timely manner and charter schools should accurately convey their enrollments and tuition requests to school districts in a timely manner. The updated regulations provide a better process to accomplish this.

PASA believes the update to these regulations will provide for a more thorough and efficient process to approve and operate charter schools in Pennsylvania. At the same time, they will provide school districts and taxpayers with the information they need to process charter school requests and work collaboratively on behalf of the students both entities serve.

Good morning. I am Lisa Augustin, the Director of Charter Schools for the School District of Pittsburgh. I am in my twelfth year as the district's sole authorizer representative, which makes me responsible for oversight, communication, and transparency for the twelve (12) charter schools in the district. The mission of the Office of Charter Schools and my primary responsibility is to support Pittsburgh families in making the best educational choices for their children by holding charter schools accountable for living up to intentions presented in their application, the agreement with the district, and the Charter School Law, sharing relevant information, and transparency. In the absence of legislation that improves upon the 25-year-old Charter School Law, which was deemed the worst in the nation, the proposed regulation provides much needed movement toward those ends. The School District of Pittsburgh fully supports the proposed regulation.

This regulation provides families who choose charter schools assurances that include:

- A new charter has to meet standards in the application that promote the most beneficial and impactful educational opportunities.
- Cyber charter schools, as they should be, are held to the same standards as brick and mortar charter schools.
- There is transparency in enrollment practices.
- Enrollment practices afford all families equal access..
- Charter school board members are held to the same requirements and expectations as regular public schools.
- Charters maintain financial viability by following generally accepted standards of fiscal management and audit requirements.

It is only reasonable that charter schools provide the security and transparency to families that this regulation promotes. Considering this regulation primarily clarifies and strengthens these aspects of the Charter School Law, authorizers have the expertise and experience to provide the necessary oversight and evaluation in a fair and equitable manner. By establishing cordial and collaborative relationships with each charter school, learning the Charter School Law, and working closely with the charter representative(s) from our solicitor's office, I have been able to provide accurate, comprehensive information to families, which informs their school choice. This is about providing the necessary information for families to choose and then ensuring that schools adhere to requirements and meet expectations.

In the School District of Pittsburgh, we Expect Great Things for all of our students and school communities. This includes our students who attend charter schools. We have a responsibility to ensure those great things at charter schools, which will not happen for the students at charter schools without this necessary regulation.

**Testimony Before the Independent Regulatory Review Commission
Related To: No. 3315 Department of Education #6-349: Charter Schools and Cyber
Charter Schools**

**Presented By: Lawrence F. Jones, Jr., M.Ed.
On Behalf of The African American Charter School Coalition**

My name is Lawrence Jones, I am the Chief Executive Officer of the Richard Allen Preparatory Charter School and a member of the African American Charter School Coalition. The African American Charter School Coalition (AACSC) is made up of African American founded and led public charter school founders, leaders, and parents whose children attend these schools. AACSC was created to achieve a dual purpose. First, AACSC is dedicated to uplifting Black founded and led schools, and highlighting the significance and contributions these schools make to our families and communities. Second, AACSC is committed to ending systemic bias and racism in public education and creating a non-biased system of charter oversight, renewal, and expansion for Black founded and led schools.

Our Coalition membership collectively represents approximately 20 brick and mortar school locations and over 15,000 children and working class families who reside within the city of Philadelphia. Although these families are city residents, many times, the parents of the children who attend these schools feel like they aren't being heard nor supported by the stakeholders who represent them.

Therefore, we have launched the Black Schools Matter campaign which is our effort to correct misinformation that has been spread about Black founded and led public charter schools. This campaign also seeks to hold all of our stakeholders and individuals who are in positions of power accountable to not only ensure our scholars and parents feel like they do matter, but to also create a more fair and equitable system of oversight, renewal, and expansion for our schools.

The schools within our Coalition represent not only high quality and culturally focused education programs for scholars, but they also serve as an economic engine for the communities they are in. They support other businesses - including many small black owned businesses and vendors.

- Over 50% of our teachers are minority
- Over 96% of our student population is Black and
- 98% of our students are from low-income households.

Despite having high quality academic programs, there are inequities that exist between white and black led schools when it comes to keeping schools open, expanding, funding opportunities, resources, and support. These biases are evidenced through alarming statistics such as, Black charters making up approximately 19% of the charter community but accounting for about 87% of all recommendations for closure. The School District of Philadelphia has

engaged a law firm (Ballard & Spahr) to conduct an independent investigation into allegations of bias and the disparate outcomes of the charter authorization process in Philadelphia.

The regulations being considered purport to, “promote transparency, equity, quality, and accountability in the implementation of the CSL’s provisions relating to the establishment of new charter school entities and the governance and operation of existing charter school entities.”(Independent Regulatory Review Commission, 2021). Ironically, the regulations serve to do the opposite when it comes to minority operated charter schools. The regulations being considered propose to create a more standardized and transparent application for new charter schools. However, the regulations still allow for districts to create and use their own applications. Consider that nationally, barriers to entry for minority charter schools have been documented in a national study. The study found that over-regulation and increased stringency in new charter applications, “imposes significant barriers to entry for standalone applicants, African Americans, and Latinos aspiring to open charter schools.”(Kingsbury et al., 2020) Consider that in Philadelphia, since 2010 no traditional Black or minority-led charter schools were opened. However, there were eight (8) non-minority schools opened through the authorizers process. The eight new schools enrolled a total of 5,117 students in the 2020-2021 school year. Please keep in mind that during that time period eleven (11) Black led schools were closed enrolling 4,902 students.

Obviously, there is something wrong. The data clearly shows disparate outcomes for Black and minority led charter operators in the new application and charter renewal process. Oddly, there are no regulations proffered to remedy this issue, even as the state’s largest district has taken steps to investigate issues of potential discrimination. Instead, the proposed regulations would only serve to exacerbate the problem, but not just in terms of new applications and renewals.

Another problematic aspect of the proposed regulations deals with the redirection process. In the final form regulations, the process is updated, but there still exists no penalty for districts that refuse to pay charters, routinely pay charters inaccurately, or impose enrollment caps on charters. The entire redirection process creates additional regulatory and bureaucratic burdens on small standalone minority-led and operated schools. Keep in mind that most minority operated charters in Pennsylvania are smaller standalone schools. Additionally, any cash flow interruptions would also have a more profound fiscal impact on standalone schools, once again disproportionately impacting minority charters.

The charter school law was initially created in large part to, “Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system.”(Pennsylvania Legislature, 1997). The law clearly sought to provide expanded choices equitably for parents, students, and operators. The current law has not successfully provided equity for charter school operators as evidenced by the barriers to entry and disparate outcomes for Black and minority-led charter schools. The regulations before the Independent

Regulatory Review Commission will serve to further disproportionately impact minority charter schools in a negative manner. Amazingly, the Governor's office nor the Pennsylvania Department of Education have proposed any regulations to remedy the biases and disparate outcomes evident in the charter authorization process. While some may believe this silence is complacency, we see it as an endorsement of the bad behavior. Approval of the regulations by the Independent Regulatory Review Commission would only serve to codify the bias and discrimination apparent in the process.

IRRC – March 21, 2022 – Charter School Redirection Process

Good morning and thank you for allowing me this opportunity.

I am Alan Fegley, Superintendent of Schools of the Phoenixville Area School District. I also serve as a Board Member of the 21st Century Cyber Charter School. Additionally, the Phoenixville Area School District is the authorizer of the Renaissance Charter School a brick-and-mortar charter school.

I come before you today to support the new redirection regulations as they provide greater clarity to the charter school payment process and of course the redirection process. This clarity will help to improve the relationships between schools and charters due to fewer payment disputes.

The new regulations will develop and require both charters and school districts to use a web-based system, the Charter School Redirection module within PDE's Consolidated Financial Reporting System. The CSR module will require the Charter School to clearly identify the student (PA Secure ID, home address, date of birth, grade, date of enrollment, first and last date of education, and special education status) they are claiming for payment. This real time web-based system by ensuring clarity of information should make it easy for the school district to identify the claimed student as theirs or work with the charter to locate the student's home district. Clarity of information will result in fewer requests being in dispute due to errors and ultimately fewer redirections.

Further the rule changes recommended continue to require school districts to pay a bill on the 5th of the month, important for the charter schools, but require an appropriate change requiring charter schools submit their bills ten business days prior to the 5th of the month. This gift of clarity and time will allow school districts and charters the time they need to resolve the bill, again resulting in fewer redirections and ultimately better relationships.

I thank you for considering and hopefully approving these new regulations. As a Superintendent of Schools, a brick-and-mortar Charter School Authorizer, and cyber school charter Board Member, it is important to have a clear, fair, and thoughtful payment and redirection process. The proposed regulations will allow all to have clear information and time for reconciliation and payment.

Thank you.



Parent Testimony – March 17, 2022

Pennsylvania Department of Education – Regulation #6-349 Charter Schools and Cyber Charter Schools

Name: Toya Algarin

Organizations Representing:

- KIPP Philadelphia Public Schools
- Mastery Charter Schools
- Propel Schools

Good morning everyone, my name is Toya Algarin, I am a parent and grandparent of a student at KIPP Philadelphia Public Schools. I am here on behalf of KIPP, but also Mastery Charter Schools in Philadelphia, and Propel Schools in Pittsburgh. Thank you for giving me the chance to speak today. I am one voice, but my views are shared by thousands of charter school parents in Philadelphia to Pittsburgh. We are united in opposing the Pennsylvania Education Department's charter school regulations and I am here to ask you to please vote NO on these regulations!

The Pennsylvania Constitution requires the state to provide "a thorough and efficient system of public education to serve the needs of the Commonwealth." Many city schools, including the School District of Philadelphia, do not provide anything approaching a thorough education. That's why years ago, Democrats and Republicans banded together to create Pennsylvania's charter school law. It gives parents, *such as myself*, and our kids, the ability to **choose** our schools!!! We are, as parents, our students' best advocates, and exercising our choice, ensures our children receive the educational opportunities that is their constitutional right.

If these regulations are approved, they will severely jeopardize the existence of our schools!! We are imploring you, please do not approve them. Please vote no! These public schools have been transformative in the lives of our children and these regulations go beyond the scope of the Charter School Law. They are merely burdening our schools with more bureaucratic red tape. This bureaucracy will ultimately take resources away from our students – resources they desperately need.

Moreover, proposed regulations should be created in collaboration with the individuals and groups who will be impacted by the regulations – in this case that's us – the public charter school community. Governor Wolf and his administration never engaged public charter school families, students, or educators to explain how these regulations would impact us. When our community asked to be involved in the drafting of these regulations, we were told no. When we submitted concrete suggestions and hundreds of letters in opposition to the proposed regulations, we were ignored. WE ARE ASKING YOU TO HEAR US NOW.

I am concerned that the Pennsylvania Education Department's proposed regulations are a step backwards in providing families a voice in our children's education. As I understand it, the regulations will:

1. Make it harder for our public charter schools to be approved for renewal even when they have met all the academic standards.
2. Give more power to the school districts that oversee charter schools, even though these same districts have been failing our children for years.
3. Create barriers that make it almost impossible to open new public charter schools.

The regulations are said to be about reform and accountability. And yes, accountability is important. But so is allowing parents and students to have choice in the schools our kids attend. By creating barriers for charter schools, this regulation is unnecessarily limiting our choice. That's wrong and should be stopped. Please vote NO on these regulations.

Charter schools are public schools. They give our children the chance at a better education. They transform our children's lives. They fulfill the Pennsylvania Constitution's mandate about education. Why our state's Education Department wants to limit educational opportunities for some students who may be the most at risk is beyond me.

Again, we are asking you to please listen to us, please hear us today, please vote NO on these regulations.

Thank you again for the opportunity to speak.