

**ED, CharterRegs**

From: lenny@pacharters.org
Sent: Monday, October 18, 2021 1:27 PM
To: ED, CharterRegs
Cc: Jean Morrow; Dennis A. Giorno; Dennis Walsh; Brian Abela
Subject: [External] RE: Regulation #6-349: Charter Schools and Cyber Charter Schools
Attachments: PCPCS Comment on Proposed Regulations (Oct 17 2021).pdf

Importance: High

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Good afternoon,

The below (and attached) reflects the position of the Pennsylvania Coalition of Public Charter Schools concerning proposed Regulation #6-349: Charter Schools and Cyber Charter Schools.

October 18, 2021

To: The Pennsylvania Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101
RA-EDCharterRegs@pa.gov

RE: Regulation #6-349: Charter Schools and Cyber Charter Schools

Dear Secretary Ortega and the Pennsylvania Department of Education,

On behalf of the Pennsylvania Coalition of Public Charter Schools (PCPCS) and the thousands of students, families, and educators that we partner with, I am writing to express our opposition to the proposed regulation:

Regulation #6-349: Charter Schools and Cyber Charter Schools.

The proposed regulations will not serve its expressed purpose: to bring a more efficient, fairer, and better set of expectations and policies concerning charter schools. In fact, these regulations make the charter school administration harder, as they make the process more subjective, more cumbersome, and even punitive. Even the reason given for putting such regulations (e.g., saving the Department of Education money and resources) has a minimal yield at best (e.g., saving the Department less than \$60,000 annually while eliminating a channel of due process for charter students to receive their tuition payments in a timely fashion).

Respectfully, there is a reason why millions of Pennsylvanians elected the General Assembly and employ them as a full-time legislature: to represent all of Pennsylvania as we collectively move through tough issues such as K-12 education reform.

I would like to list some of our objections to Regulation #6-349 by section:

713.2 Contents of Charter School or Regional Charter School Applications and 713.3 Contents of Cyber Charter School Application (located on pages 4 - 13 in Regulation #6-349)

This section of the regulation appears to be designed to create a fairness and objectivity in the authorization and renewal process for charter operators and authorizers. However, this regulation fails to hit the mark. As written, the regulation creates a minimum standard that all authorizers must meet, but it does not restrict the ability of the authorizing party to create burdensome requirements during the application process. A standardization of minimum requirements while still maintaining a high level of subjectivity and lack of standardization as “maximum requirements” provides an opportunity for requirements to be used as punitive measures by authorizers. Further, subjective and cumbersome requirements can be used on a case-by-case basis to discourage charter operators from applying or constraint schools from implementing the innovative approaches to education that make them attractive options for Pennsylvania parents and schoolchildren.

Currently, the General Assembly is working on legislative guidelines that can serve as pliant yet sturdy parameters for authorization and renewal processes for charters so that both authorizers and charter operators understand requirements in a consistent, fair, and balanced manner. The work to implement these guidelines should be left to the legislative process and its diverse perspectives chiming in and working together to create this reform.

713.4 Random Selection Policies for a Charter School or Regional Charter school and 713.5 Random Selection Policies for a Cyber Charter School (located on pages 14 - 17 in Regulation #6-349)

This section of the regulation appears to be designed to require brick-and-mortar and cyber schools to use random selection if more students want to enroll more than attendance slots available. This purpose of this seems to be to create fairness for charter school applicants as they seek alternative options in K-12 education as trends continue to migrate away from public district schools.

However, as the Department is aware, there is a lottery currently in place that prompts the enrollment of students into charter schools whenever these schools hit prescribed limits and there are students still awaiting admission. This regulation would not create the desired result for thousands of Pennsylvania families: making the system fairer so that their schoolchildren have access to school choice in public education. Instead, this regulation would make the process more cumbersome and restrictive for families to find and secure their best options for their children.

Instead of putting pressure on the items that restrict Pennsylvania families from finding the educational options they seek in public education, this regulation proposes to pressure charter school operators within the same confining system that has Pennsylvania parents frustrated. This will not make the lottery system fairer, nor will it make charter schools more accessible to the thousands awaiting admission. The best approach to ensuring that charter school applicants are offered the best and fairest chances to enroll in the school choice options they seek is to follow the General Assembly’s lead in crafting and implementing policies that would make more high-quality charter schools available.

713.6 Requirements for Boards of Trustees (located on pages 17 - 19 in Regulation #6-349)

This section of the regulation attempts to create a standard of ethical requirements for charter school board members with the assumption that such requirements are not followed by charter schools at this time. We agree with the sentiment of this section, notably since charter schools already have established ethical standards in place for their board members and legislation has

been advanced in the General Assembly multiple times in recent years to bolster these standards. Again, this proposed section is an overreach and a redundancy through the regulatory process, as the legislative process has actively worked on bolster these standards for several years now.

7 13.7 Fiscal and Auditing Standards (located on pages 19 - 20 in in Regulation #6-349)

As with the section on board requirements concerning ethics, this section of the regulation addresses an item that is not an issue. Charter schools are required to follow fiscal and auditing standards as Pennsylvania K-12 public schools. Again, we agree with the sentiment of this section. There should be consistent and accountable measures in place to ensure that audits of all public schools (i.e., district schools and charter schools) meet a certain level of quality. However, this regulation only addresses public charter schools, not all public schools. Further, these standards are being pursued already by charter school operators and, as well, legislation has been advanced in the General Assembly multiple times in recent years to bolster these practices. As stated before, this proposed section is an overreach and a redundancy through the regulatory process, as the legislative process has actively worked on bolster these standards for several years now.

713.8 Redirection Process (located on pages 20 - 22 in Regulation #6-349)

For this section of the regulation, the Department of Education states that the proposed change in the process will help save less than \$60,000 annually in the interest of government efficiency. In the meanwhile, this proposed regulation seeks to eliminate at least 25% of all redirection disputes that come to the Department (i.e., roughly 14,000 according to the Department's estimate). Some of 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.

In essence, the Department is proposing a regulation that will hamper the potential of thousands of Pennsylvania schoolchildren and their futures to save itself the equivalent of less than 10 minutes of its annual budget as part of a multi-billion-dollar department.

That is simply wrong.

Why would the Department of Education make it harder for schools full of students that are disproportionately more apt of be poor, African American, Latino, and from hardscrabble neighborhoods? Why would the Wolf Administration want an education sector that has seen enrollments almost double in the last 10 years to have more difficulties and longer wait times to receive the education funding that the state allots their students for the opportunities these students deserve?

Legislation being worked on in the General Assembly is trying to streamline the tuition redirection process so that schools where students are actively enrolled get as much of the afforded taxpayer resources as possible with all deliberate speed. This regulation moves in the opposition direction of the work that the General Assembly is doing on behalf of these schoolchildren and their families. As parents demand more options, the General Assembly is trying to make them more accessible. This proposal works to make those options less accessible through making the financial resources less accessible.

Again, that is simply wrong.

This regulation, and all proposed legislation, must eschew picking winners and losers in K-12 public education when it comes to funding. 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 should work with the elected officials in Harrisburg to pass legislation that help both public district schools and public charter schools.

713.9 School Staff and health care (located on pages 22 - 24 in Regulation #6-349)

This section of the regulation attempts to create equality between all public-school staff, hoping to ensure that all public-school staff has access to the same benefits.

And yet, just in a previous section of the regulation, the Department of Education seeks to cement inequality between public district schools and public charter schools in the funding process by offering changes that will make it harder for those with less resources already to receive the monies they are due in tuition redirections.

In essence, the Department is proposing that charter schools that collectively have significantly less resources should provide the same level of healthcare benefits that school districts with taxing authority and significantly more resources provide – all while the Department is trying to make it more difficult for charters to receive the tuitions they are owed in an expedient and complete fashion?

One aforementioned section of the regulation contravenes the other.

The Department seeks to create equal footing for healthcare benefits between all charter schools and all district schools, yet there are not equal work conditions among the 500 public school districts in the Commonwealth. Each have their own pay scales and range of benefits affiliated with working within their school districts (such as particular days off for in-service days, training days, and other paid days' off). There are no overarching attempts by the Department to impose a standard on 500 public districts, as the Department knows that some public-school districts could be bankrupted by economic considerations that other districts could comfortably enjoy. Yet, the Department wants to put these considerations on charter schools, entities with no taxing authority and with their revenue streams often at the whim of school districts that authorize them.

This section of the regulation seeks equality in a realm where the inequalities have been apparent for years. Unilateral regulations cannot and will not bring about the equality that the Department purports to seek in healthcare benefits or other conditions of employment. However, the General Assembly is working on reforms that will advance the notion of fair treatment for all public schools in K-12 education in Pennsylvania. We collectively must work with them.

Conclusion

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%. 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 charter schools for their students.

This regulation is not the answer. We urge Governor Wolf and Acting Secretary Ortega to collaborate with the General Assembly for transformative legislation that is balanced, bipartisan, and beneficial to us all is. It is my hope that the Department rescinds this proposal and works with elected lawmakers to create policies that make sense for all schools. Creating laws through unelected bureaucracy is not what democracy is all about.

The public charter school community welcomes the opportunity to speak with and partner with you and your staff about fair, comprehensive charter school reforms. Secretary Ortega, please feel free to reach out to me to discuss at lenny@pacharters.org so we may begin this important dialogue.

Sincerely,

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CEO, *PA Coalition of Public Charter Schools*

Advocating for the [143k Rising](#) of Public Charter School Students in PA

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