

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>RECEIVED</p> <p>SEP - 8 2021</p> <p>Independent Regulatory Review Commission</p> </div> <p>IRRC Number: 3315</p>
<p>(1) Agency: Pennsylvania Department of Education</p> <p>(2) Agency Number: 006</p> <p>Identification Number: 349</p>	
<p>(3) PA Code Cite:</p> <p>Title 22. Education Part XX. Charter Schools Chapter 713. Charter Schools and Cyber Charter Schools</p>	
<p>(4) Short Title: Charter Schools and Cyber Charter Schools</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Randall Seely, Division Chief Pennsylvania Department of Education Division of Charter Schools 333 Market Street, 3rd Floor Harrisburg, PA 17126 717-787-9744 rseely@pa.gov</p> <p>Secondary Contact: Eric Levis, Deputy Director Pennsylvania Department of Education Policy Office 333 Market Street, 10th Floor Harrisburg, PA 17126 717-783-6788 elevis@pa.gov</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The proposed regulation clarifies elements of the Charter School Law (CSL) and sets conditions that emphasize accountability, equity, quality, and transparency. The regulation establishes a minimum standard for charter school, regional charter school and cyber charter school applications; better ensures</p>	

non-discriminatory student enrollment policies as required by the CSL; clarifies that charter and cyber charter school boards of trustees are subject to the Public Official and Employee Ethics Act; requires standard fiscal management and auditing practices; details the tuition payment redirection process for charter schools entities and school districts; and specifies minimum standards for the provision of health care benefits.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 1732-A(c) and 1751-A of the CSL (24 P.S. §§ 17-1732-A(c) and 17-1751-A), authorize the Pennsylvania Department of Education (Department or PDE) to promulgate regulations relating to charter school entities and to implement the CSL (24 P.S. §§ 17-1701-A – 17-1751-A).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is not mandated by any federal or state law or court order or federal regulation. However, the Commonwealth Court, in *Insight PA Cyber Charter School v. Department of Education*, 162 A.3d 591 (Pa. Cmwlth. 2017), noted “the Department has the express authority to promulgate regulations to implement the portions of the [Charter School Law] relating to cyber charter schools...” and that, in the context of management organization contracts, promulgated regulations “would be beneficial to charter school applicants and chartering authorities.”

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

In enacting Pennsylvania’s Charter School Law in 1997, the General Assembly intended to provide opportunities for teachers, parents, students, and community members to establish and maintain charter schools that operate independently from the existing school district structure as a method to:

- Improve student learning;
- Increase learning opportunities for all students;
- Encourage the use of different and innovative teaching methods;
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- Hold the schools established under the CSL accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

At the heart of these principles is the idea that charter schools will serve as laboratories of innovation. However, apart from amendments enacted in 2001 to authorize the establishment of cyber charter schools, the CSL has remain largely unchanged since its enactment.

Charter schools are expected to receive nearly \$3 billion in publicly paid tuition during the 2020-21 school year, plus additional federal funding provided through pandemic emergency and recovery relief. Accordingly, the Department is proposing regulations to ensure public awareness of the expenditure of these resources.

For the 2020-21 school year, there are 177 charter schools and cyber charter schools authorized to operate in the Commonwealth; all 67 counties in Pennsylvania have students enrolled in some form of charter school. Transparency, equity, quality, and accountability in the establishment, governance, and operation of charter school entities are vital to ensuring that constituencies impacting charter school entities – including the boards of trustees that govern charter school entities, the for-profit and nonprofit organizations that play a role in the management of charter school entities, and authorizers of charter school entities – adhere to the statutory requirements and structural norms that maintain the effectiveness of the CSL.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Charter school laws and regulations are unique to each state based on state authorizing structure, charter finance policies, broader school finance policy, and labor organizing laws of the state, among other factors. To inform cross-state analysis for this component of the Regulatory Analysis Form, the Department generated a purposeful sample based on the following: 1) as many of the previous factors listed as possible, 2) proximity to Pennsylvania, and 3) consultation with the nonpartisan Education Commission of the States.

Pennsylvania's ability to compete with other states is not impacted by the proposed regulation as students cannot arbitrarily choose to attend a "competing" public school in another state without physically moving to that state. As demonstrated below, the proposed regulation clarifies statutory requirements currently enacted by most of the Commonwealth's contiguous states as well as other states across the country. A consistent regulatory environment is expected to reduce administrative and legal expenses for charter schools, school districts, and the state and make it easier for all parties to navigate and comply with state requirements.

A cross-state analysis, organized by each component of the proposed rulemaking, follows below:

Contents of Application

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1, Rule 4.00 (relating to Institute Charter School application contents), prescribes the contents of charter school applications, which mirrors the criteria the Department is proposing, e.g., description of the educational program, student performance standards and curriculum; governance and operations structure; proposed budget; enrollment policy; plan for serving students with special needs; and the use of education management service providers.

Delaware - The Delaware Administrative Code, at 14 Del. Admin. C. § 275-4.0 (relating to standards and criteria for granting charter), outlines application qualifications that must be met for a charter to be granted, including the following that reflect the Department's proposed rulemaking: curriculum and instruction strategies; business management, including accounting and school finance; personnel management; diversity issues, including student recruitment and instruction; at risk populations and children with disabilities; school operations, including facilities management; bylaws, including a commitment to comply with the Freedom of Information Act; performance requirements tied to the state assessment and accountability system; education programming aligned to State content standards; and

economic viability, including documentation of the sources and amounts of all proposed revenues and expenditures.

Maryland - The Code of Maryland Regulations, at Md. Code Regs. Title 13A (relating to Maryland State Board of Education), does not address the specific regulatory items proposed by the Department. However, many of the Department's efforts to better implement the CSL are thoroughly prescribed in Maryland statute, Md. Code Ann., Education §§ 9-101 to 9-112. Specifically, Md. Code Ann., Education §9-104 (relating to public charter school – application) addresses application requirements.

Massachusetts - The Code of Massachusetts Regulations, at 603 Mass. Code Regs. 1.04 (relating to applications for and granting of charters), prescribes the minimum conditions an applicant must meet for approval. The requirements mirror the Department's proposed rulemaking and include enrollment projections; management structure; bylaws to govern the board of trustees; performance standards; enrollment policy; and financial plan.

Minnesota - While Minnesota Administrative Rules do not address charter school application requirements, Minnesota statute, at Minn. Stat. § 124E.06 (relating to forming a school), outlines application requirements that reflect much of the detail in the Department's proposed rulemaking including, crucially, the charter school developer's background and experience.

New Jersey - The New Jersey Administrative Code, at N.J.A.C. § 6A:11-2.1 (relating to application and approval process), outlines application qualifications, including the following that reflect the Department's proposed rulemaking: educational program; goals and objectives; at-risk populations; staffing information; financial plan; governance and organizational plan; facilities; and daily and annual schedule. Documentation supporting the application is required and must include but is not limited to course and curriculum outlines, graduation requirements, school scheduling information, professional backgrounds of administrators and staff, professional development and evaluation plans, an organizational chart, and documentation of fiscal and legal compliance.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102-03 (relating to approval of sponsors), requires an applicant to submit a written application as established by the Education Department. An applicant must submit supporting documentation including mission statement; strategic plan (if the applicant has one); board structure; annual report (examples related to the board's review of its performance, continuous improvement plan); financial and independent audits; organizational chart; staff resumes/biographies with current roles indicated; job descriptions; budget of the organization's yearly revenue and expenditures; conflict of interest policy; list of any schools ever sponsored, their current status and performance data (if applicable); and professional development opportunities.

Random Selection Policies

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1 (relating to rules for the administration of the state charter school institute), does not address random enrollment policies. However, Colo. Rev. Stat. § 22-30.5-109(3) (relating to charter schools – reporting – publicizing – limits on enrollment - moratorium prohibited) requires that “greater consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils.” Also, Colo. Rev. Stat. § 22-30.5-104(3) requires that enrollment decisions be made in a nondiscriminatory manner.

Delaware - The Delaware Administrative Code, at 14 Del. Admin. C. § 275-8.1 (relating to enrollment preferences), requires charters to identify the standard used to provide enrollment preferences to children of a charter school's founders. It does not explicitly discuss random selection processes for enrollment,

but Delaware statute, at 14 Del. C. §506(a)(3)(b) (relating to restrictions), states that a charter school shall not restrict student admissions except “by lottery in the case of over-enrollment.”

Maryland - While Maryland regulations do not address the specific regulatory items outlined by the Department, Maryland’s statute thoroughly prescribes much of the detail in the Department’s proposed rulemaking (Md. Code. Ann., Education §§ 9-101 to 9-112). Specifically, Md. Code. Ann., Education §9-102(3) (relating to “public charter school” defined) defines a public charter school as one that, in part, “admits students on a lottery basis if more students apply than can be accommodated.” Md. Code. Ann., Education §9-102.2 (Lottery - Weighting and guaranteed placement) outlines conditions for enrollment preferences, including the order of preferences and weighting.

Massachusetts - The Code of Massachusetts Regulations, at 603 Mass. Code Regs. 1.05(1-13) (relating to student recruitment, enrollment, and retention), requires a lottery system when there are more applicants than spaces; prescribes preferences for enrollment; and requires that student enrollment lotteries be conducted in public and with a neutral party drawing names to ensure that the selection process is random.

Minnesota - While Minnesota Administrative Rules do not address charter school selection processes, Minnesota statute, at Minn. Stat. §124E.11 (relating to admission requirements and enrollment), requires a lottery system when there are more applicants than spaces and prescribes preferences for enrollment.

New Jersey - The New Jersey Administrative Code, at N.J.A.C. § 6A:11-4.5(a) (relating to lottery), requires a charter to use a random selection process when there are more applicants than spaces available. Conditions for enrollment preferences are also prescribed in N.J.A.C. § 6A: 11-4.5.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102 (relating to community schools), does not address random enrollment policies. Ohio Rev. Code Ann. § 3314.06(H) (relating to administrative procedures) prescribes preferences for enrollment and states that students will be admitted “by lot” if the number of applicants exceeds capacity restrictions.

Boards of Trustees

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1, Rule 4.00 (relating to Institute Charter School application contents), requires applicants to provide an “explanation of any existing or potential conflicts of interest between the governing board of the proposed Institute Charter School and the Education Management Provider.” Also, 1 CCR 301-88, Rule 2.01 (relating to conflict of interest, nepotism, and excessive compensation) requires the adoption of “conflict of interest policies that comply with federal and state laws applicable to public officials.”

Delaware - The Delaware Administrative Code, at 14 Del. Admin. C. § 275-3.0 (relating to application process), requires charter applicants and members of a charter school board to “make the financial disclosures relating to ownership and financial interest as required by [Delaware statute],” which states “The charter school application shall include a disclosure of any ownership or financial interest in the charter school, including but not limited to the building and real property to be used in the operation of the charter school, by the charter school founders and the board of directors of the proposed charter school.” 14 Del. C. §511(q). Also, the Delaware Administrative Code, at 14 Del. Admin. C. § 275-4.0 (relating to standards and criteria for granting charter), requires a charter’s board of directors, as a public body, to comply with the state’s Freedom of Information Act (29 Del. C. Ch. 100) in conducting charter

school business. Delaware statute, at 14 Del. C. §512(15) (relating to approval criteria), requires a school to have a “satisfactory plan to ensure the effectiveness of its board of trustees....”

New Jersey - The New Jersey Administrative Code, at N.J.A.C. § 6A:11-3.1 (relating to board of trustees and administrators), states that members of the board of trustees “shall be school officials as defined in the School Ethics Act” (N.J. Stat. §18A:12-23), avoid conflicts of interest (N.J. Stat. §18A:12-24) and shall file financial and personal/relative disclosure statements annually (N.J. Stat. §18A:12-25). A board of trustees is also subject to the state’s Open Public Meetings Act pursuant to N.J.A.C. § 6A:11-4.12(b).

Maryland - While the Code of Maryland Regulations, at Md. Code Regs. Title 13A (relating to Maryland State Board of Education), does not address the specific regulatory items outlined by the Department, Maryland statute thoroughly prescribes expectations for charter school governance. Specifically, Md. Code. Ann., Education §9-106 (relating to public charter school – obligations and waiver) provides that a charter school “shall comply with the provisions of law and regulation governing other public schools.” Md. Code, General Provision §5-817(a)(1)(ii) requires school boards to adopt financial disclosure regulations applicable to members of the school board and §817(a)(2)(i)(2) applies the requirements to “other officials and employees designated by the school board.”

Massachusetts - The Code of Massachusetts Regulations, at 603 Mass. Code Regs. 1.06 (relating to board of trustees and staff), outlines the responsibilities of the board of trustees, and requires that the bylaws of charter school boards of trustees attend to “compliance by members of the board of trustees with the Commonwealth’s state ethics requirements, including meeting all training requirements, filing all required disclosures under M.G.L. c. 268A, and the filing of statements of financial interest under M.G.L. c. 71, § 89(u)” (603 Mass. Code Regs. 106.(2)(e)).

Minnesota - While Minnesota Administrative Rules do not address charter school board of trustees, Minnesota statute, at Minn. Stat. § 124E.14 (relating to conflicts of interest), clearly defines the conditions of a conflict of interest for board members under which a charter school contract would become void, including having a financial interest in the entity in which the charter school is contracting. Further, a charter school board member is defined as a local official for purposes of Minn. Stat. § 471.895 (relating to certain gifts by interested persons prohibited) regarding receipt of gifts.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102 (relating to definitions), defines “governing authority” as the board responsible for operating and managing a community school, and stipulates that “[n]o present or former member, or immediate relative of a present or former member of the governing authority of any community school established under Chapter 3314 of the Revised Code shall be an owner, employee or consultant of any nonprofit or for-profit operator of a community school, as defined in section 3314.014 of the Revised Code, unless at least one year has elapsed since the conclusion of the person's membership.” “Immediate relatives” are defined as spouses, children, parents, grandparents, siblings, and in-laws (Ohio Admin Code 3301:102-02(L)). Additionally, sponsors of community schools must “pose no conflict of interest” in accordance with Ohio Rev. Code Ann. Ch. 102 (relating to public officers – ethics) and Ohio Rev. Code Ann. Ch. 3301 (relating to Education).

Fiscal and Auditing Standards

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1, Rule 4.00(1)(g) (relating to Institute Charter School application contents), requires applicants to “describe the method for obtaining an independent annual audit of the proposed Institute Charter School’s financial Statements consistent with generally accepted auditing standards and Circular A-133 of the United States Office of Management and Budget, as originally published in the Federal Register of June 30, 1997, and as subsequently

amended.” Colo. Rev. Stat. § 22-30.5-104 (4)(a)) prescribes that “a charter school shall annually complete a governmental audit that complies with the requirements of the department of education.”

Delaware - The Delaware Administrative Code, at 14 Del. Admin. C. § 275-7.0 (relating to financial audit), requires charter schools to “contract” to perform an annual audit of the “business and financial transactions, records, and accounts of the school, in a form and manner satisfactory to the Department.”

New Jersey - The New Jersey Administrative Code, at N.J.A.C. §6A:23A-16.1(b) (relating to GAAP accounting), requires financial bookkeeping systems to be “fully consistent” with generally accepted accounting principles established by the Governmental Accounting Standards Board. Also, N.J.A.C. §6A:23A-16.2 (relating to principles and directives for accounting and reporting) requires the annual financial report to comply with the Government Auditing Standards by the Comptroller General of the U.S.

Maryland - The Code of Maryland Regulations, at Md. Code Regs. Title 13A.02.07.04 (relating to audits of financial statements), requires local school boards to perform an annual audit in accordance with generally accepted auditing standards. Maryland statute, at Md. Code. Ann., Education § 9-106 (relating to public charter school – obligations and waiver), provides that charter schools may not be granted a waiver from provisions of law or regulation relating to audit requirements.

Massachusetts - The Code of Massachusetts Regulations, at 603 Mass. Code Regs. 1.08(3), requires charters to have an “independent audit conducted of its accounts, consistent with generally accepted government auditing standards and any guidelines issued by the Department. Audits shall be filed annually by November 1 with the Department and the Office of the State Auditor.”

Minnesota - While Minnesota Administrative Rules do not address charter school fiscal and auditing standards, Minnesota statute, at Minn. Stat. § 124E.16 (relating to reports), requires charter schools to submit an annual audit report to both the state commissioner of education and the charter school authorizer that complies with generally accepted governmental auditing.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102-05(6) (relating to monitoring and reporting requirements for all sponsors), requires sponsors to comply with financial reporting requirements in accordance with “applicable accounting standards and as prescribed by all applicable sections of the Revised Code and rules of the Administrative Code.” Ohio Admin. Code Ch. 117 (relating to auditor of state) requires school districts to follow guidelines established by the Governmental Accounting Standards Board. Ohio Admin. Code 117-1-01(c) defines “generally accepted governmental auditing standards” as the “standards for the conduct of audits promulgated by the auditor of state pursuant to section 117.19 of the Revised Code, including, but not limited to, ‘Government Auditing Standards’ promulgated by the comptroller general of the United States.”

Redirection Requests

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1, Rule 4.00(1) (relating to Institute Charter School application requirements), requires applicants to include a “dispute resolution process,” as provided for in Colorado statute at Colo Rev. Stat. § 22-30.5-107.5 (relating to charter application – process). The statute provides a specific timeline for submitting and resolving disputes.

Delaware - Delaware statute, at 14 Del.C. § §509(b)(2) (relating to school financing), provides that school districts must advance at least 35% of the local cost per student to charters at the start of the fiscal year provided the charter provides a preliminary roster by May 1. Final rosters must be submitted by

September 30. For school districts that do not make “timely” payments to charters, the Department may transfer funds directly to the charter after the school district receives “reasonable notice” and an opportunity to be heard. The Delaware Administrative Code, at 14 Del. Admin. C. § 275- 6.1 (relating to funding), provides that “[t]he Department may withhold State and local funding from a Charter Holder not in compliance with the terms of the charter being funded, including compliance with any conditions placed on such charter.”

New Jersey - The New Jersey Administrative Code, at N.J.A.C. § 6A:23A-15.3 (relating to enrollment counts, payment process, and aid adjustments), specifically addresses the timeline and steps for charters to submit and receive payments from school districts. In general, the regulation requires school districts to pay charters in 12 equal installments after the charter submits by October 15 an enrollment list of students “in a format prescribed by the school district.” At the end of each year, charter enrollments are reconciled against the October data and charter payments are adjusted accordingly. If a school district falls behind in payments by 15 days, the charter school may petition the state education commissioner to have the amounts deducted from the district’s state aid and paid directly to the charter school.

Maryland - Maryland Regulations do not address payment procedures.

Massachusetts - While Massachusetts Regulations, at 603 Mass. Code Regs. 1.0 (relating to charter schools), do not address a complaint process for tuition payment disputes, Massachusetts statute, at Mass. Gen. Laws. Ann. Ch. 71 (related to public schools), directs the commonwealth to pay tuition amounts directly to charter schools calculated and based on actual per pupil spending as if the student attended the district school, minus certain deductions. Mass. Gen. Laws. Ann. Ch. 71 § 89(w) requires Horace Mann charters to submit an annual budget request to the district in which the charter is located and may appeal to the education commissioner if the charter thinks it received a “disproportionate budgetary allocation” from the district.

Minnesota - While Minnesota Administrative Rules do not address a complaint process for tuition payment disputes, Minnesota statute, at Minn. Stat. § 127A.41 (relating to distribution of school aids; appropriation), requires the commissioner of education to distribute state funding to school districts and to increase/decrease the amount of aid if errors are found in the distribution. Minn. Stat. § 127A.45 (relating to payment aids and credits to school districts) further provides for an appeal process for payment dates and percentages.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102-03 (relating to payments, adjustments, and deductions for community schools), references payment procedures in the Education Department’s manuals for enrollment and education management systems, which in turn provides for an appeal process to the Education Department to correct/challenge data reporting used to calculate funding to charter schools (OH Education Department EMIS Manual, Section 1.1.1: EMIS Data Review & Verification and EMIS Data Appeals).

Health Care Benefits

Colorado - The Colorado Code of Regulations, at 1 CCR 302-1, does not address health care benefits for charter employees as they relate to school district employees.

Delaware - The Delaware Administrative Code, at 14 Del. Admin. C. § 275, does not address health care benefits for charter employees. However, Delaware statute, at 14 Del.C. § 512 (relating to approval criteria), requires that a charter school’s financial and administrative operations “meet or exceed the same standards, procedures and requirements as a school district.” Moreover, if a charter school chooses

to operate “outside” of the state’s pension and/or benefits systems, a memorandum of understanding—involving the charter school, the approving authority, and various state agencies—must be developed to ensure that the “interests of charter school employees are protected.”

New Jersey - While the New Jersey Administrative Code does not address health care benefits for charter employees, New Jersey statute, at N.J.Stat. §18A:36A-14 (relating to authority of board of trustees; employees), states that charters “shall adopt any health and safety provisions of the [school district’s collective bargaining] agreement.”

Maryland - The Code of Maryland Regulations does not address parity in health care benefits.

Massachusetts - Pursuant to Mass. Gen. Laws. Ann. Ch. 71 § 89(jj), the Department is charged with promulgating regulations creating the reporting requirement for a net asset balance which must include “compensation and benefits for teachers, staff, administrators, executives, and board of trustees.” The Code of Massachusetts Regulations, at 603 Mass. Code Regs. 1.04(1)(b)(3) (relating to applications for granting of charters), states that Horace Mann charter schools may be exempt from certain provisions of the local collective bargaining agreement, provided charter school employees receive, at a minimum, salary and benefits established by the local collective bargaining agreement.

Minnesota - While Minnesota Administrative Rules do not address charter school health care benefits. Minnesota statute, at Minn. Stat. § 124E.12 (relating to employment), allows charter school bargaining units to remain part of the bargaining unit of the authorizing district upon agreement between the employees and board of directors of the charter school and the bargaining unit representative and the board of directors of the authorizing district.

Ohio - The Ohio Administrative Code, at Ohio Admin. Code 3301:102 (relating to community), does not specifically reference health care benefits, but refers to duties required of the sponsor as specified in statute. Specifically, Ohio Rev. Code Ann. § 3314.03(a)(12) requires a contract between the sponsor and the charter school governing authority covering “arrangements for providing health and other benefits to employees.”

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect any other regulations promulgated by the Department or any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

On August 24, 2019, the Department published an advance notice of proposed rulemaking (ANPR) in the *Pennsylvania Bulletin* announcing its intention to exercise its statutory authority and submit a rulemaking to amend Part XX (related to charter schools) of Title 22 of the Pennsylvania Code. There was no time limit for submitting public comment, and a link to the ANPR has been available on the Department’s website since August 2019. To date, the Department has received approximately 50

comments from stakeholders. While most comments concerned desired statutory changes, other commenters addressed important goals of this rulemaking. For example:

- In a letter to the Secretary of Education, the solicitor for the School District of Pittsburgh wrote, “It is our hope that these proposed regulations, when combined with comprehensive charter reform legislation...will address several important tasks. Among these are to codify charter case law in areas where the Charter School Law (CSL) has been interpreted by the Courts; to clarify open questions regarding charter funding, to improve charter schools’ transparency and accountability and to begin to right the imbalance between school districts and charter schools that is imbedded into current law and policy.” More specifically, the School District of Pittsburgh supports the development of a statewide application for charter applicants and charter renewals; better enforcement of non-discriminatory enrollment practices; clarification that charter school board trustees are subject to the Public Official and Employee Ethics Act; requirements that educational management service providers be more transparent about expenditure of public funds; and enactment of standard accounting and auditing practices.
- Organizations such as Asian Americans United, Education Law Center-PA, Justice At Work, Nationalities Service Center, VietLead, IHAS-PA, and Arc of Greater Pittsburgh/ACHIEVEA expressed support for comprehensive regulatory reform to ensure charter schools, as public schools, are equitably and inclusively educating all students, including students with disabilities, English Learners, and other students historically less served by charter schools.

On November 22, 2019, the Department hosted a public roundtable in State College for interested stakeholders to provide feedback on priorities as outlined in the ANPR.

On March 11, 2021, the Pennsylvania Coalition for Public Charter Schools (PCPCS) sent a letter to Governor Wolf, Acting Secretary of Education Noe Ortega, members of the General Assembly, and the superintendents of the School District of Philadelphia and the School District of Pittsburgh, calling for “meaningful reforms to Pennsylvania School Law and Public School Code that improves the quality of education for every public school student in charter schools and school districts.” In its letter, PCPCS calls for a more defined and consistent process for new charter school applications to ensure the process is “fair, equitable, and efficient.” PCPCS further indicates support for modifying the payment process between public school districts, charter schools and the Department to reduce conflicts over non-payments. Finally, PCPCS argues for codification of additional accountability and transparency standards for all public schools. The proposed regulation addresses each of these aims.

As of April 5, 2021, a total of 396 school districts, nearly 80% of public school districts, across Pennsylvania have adopted resolutions calling for charter reform that includes transparency and accountability.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations, which will be affected by the regulation. How are they affected?

Contents of Application

Regulations concerning the contents of charter school and cyber charter school applications will impact all charter school, regional charter school, or cyber school applicants, and any educational management service providers used by the charter school entity, in Pennsylvania, along with the authorizers. More specifically, as a result of the proposed regulations, some authorizers may need to revise their current

charter school application and charter school applicants may need to provide different information, in a different form. If a charter school contracts with an educational management service provider, the provider may need to make available additional information for the charter school to meet the application requirements in section 713.2(c)(iv). For charter schools, regional charter schools, and cyber charter schools and their authorizers, any short-term adjustments in the provision and collection of application data should be mediated by greater consistency over multi-year charter terms. Further, a better-defined application process will improve the efficiency of authorizing activities, provide for more consistent evaluation of charter applications, and equip parents and families with vital information on local public school options.

Random Selection Policies

Regulations pertaining to random selection enrollment policies will impact current and future charter schools, regional charter schools, and cyber charter schools, as well as the students and families they serve. As of the 2020-21 school year, there are 177 charter school entities authorized to operate in Pennsylvania and nearly 2 million students enrolled in public and non-public schools statewide. The proposed regulation requires charter schools and regional charter schools to include admission and selection policies in its charter application as well as on the student application and on their publicly accessible website, ensuring transparency for authorizers, students, and families. Students will benefit by charter schools and regional charter schools enacting random selection policies that do not discriminate based on intellectual or physical ability or disability, as required under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Individuals with Disabilities Education Act (IDEA). Finally, taxpayers, families, and students will benefit from seeing exactly how preferences in admissions are considered and weighted by the charter schools serving their communities.

Boards of Trustees

Regulations pertaining to boards of trustees will impact the boards of trustees and members of those boards at all current and future charter school entities, including MCSOs, authorized to operate in Pennsylvania. As of the 2020-21 school year, there are 177 charter school entities operating in Pennsylvania, each with its own governing board. Since all charter school entities are public school entities, the proposed regulations clarify the requirement that trustee members file a statement of financial interest with the charter school board of trustees, State Ethics Commission, and each authorizer of the charter school entity. As a result of the clarifications in the regulations, a board of trustees may need to alter its business practices or have members recuse themselves from certain administrative and financial decisions to avoid conflicts of interest. The proposed regulations also clarify that boards and trustee members also will be impacted by the penalties for violating the ethics requirements outlined in the regulation.

Fiscal and Auditing Standards

Regulations pertaining to fiscal and auditing standards impact all charter school entities and their staff responsible for accounting, budgeting, and fiscal management. There is no anticipated additional cost or impact to requiring financial statements be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS) as that is standard accounting practice for public schools. Under the CSL, charter school entities already complete certain financial audits each year. However, contracts with auditing firms may need to be amended to account for requirements listed in section 713.7(c) of the proposed regulation. Since many of the auditing firms that conduct these types of reviews are small business, this regulation will result in increased

professional opportunities. Finally, consistent, generally accepted accounting and auditing standards will make it easier for charter school authorizers to annually assess a charter school entity's operation, as required by the CSL.

Redirection Process

Regulations pertaining to the redirection process will impact the Department, all 500 school districts, and all current and future charter school entities authorized to operate in Pennsylvania. The proposed regulations are expected to reduce the number of redirection requests submitted by charter school entities to the Department and increase payments directly to charter school entities by resident school districts. Last year, the Department received approximately 14,000 redirection requests. Based on the amount of time Department staff spend on processing each request and maintenance costs for the various information technology systems, the Department calculates that each redirection costs the state approximately \$15. At \$15 each, the annual cost to process 14,000 requests is \$210,000 a year. Fewer redirection requests will allow the Department to realize cost savings and reallocate limited staff time to other urgent duties. The process outlined in the proposed regulation will create predictability and transparency for both charter school entities and the school districts from which they are seeking payment.

Health Benefits

Section 1724-A of the CSL (24 P.S. § 17-1724-A) requires charter schools, regional charter schools, and cyber charter schools to provide employees with the same health care benefits as the local school district. Regulations pertaining to these requirements will potentially impact all current and future charter schools, regional charter schools, and cyber charter schools authorized to operate in Pennsylvania and the individuals they employ. As of October 1, 2020, the 177 charter school entities authorized in Pennsylvania employ 13,302 professional staff and 5,375 support staff.

School district health plans can vary widely since each school district determines their respective plan benefits and plans are independently and individually collectively bargained. Health plan contribution levels also vary by school entity and location. As such, section 713.9 of the proposed regulation only requires that charter school employees be afforded certain federally-required coverages and similar amounts of plan subsidization by the employer. The proposed regulation does not require charter schools to spend a specific amount on health care plans. The regulation is intended to serve as a proxy that would indicate that the plan options are meaningfully similar, not necessarily identical, and to ensure charter school employees have health care plans subsidized by their employer to the same extent that district employees have their plans subsidized.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

- The Department, as the authorizer of cyber charter schools.
- All 500 school districts in Pennsylvania, as the authorizers of charter schools and regional charter schools.
- All 177 Pennsylvania charter schools, regional charter schools, and cyber charter schools currently authorized in Pennsylvania.
- Anyone interested in establishing a charter school entity in Pennsylvania.
- The educational management service providers hired by certain charter school entities to manage the schools.

- All current and future charter school entity boards of trustees and trustee members.
- Auditing and accounting firms that contract with charter school entities to prepare financial statements and/or conduct financial audits. Currently, there are at least 40 of these firms in the Commonwealth.
- All current and future charter school entity employees. As of October 2020, there are 13,302 professional staff and 5,375 support staff employed by charter schools, regional charter schools, and cyber charter schools.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

There may be a financial impact on charter school entities that are not currently contracting for annual independent financial audits. Under the CSL, charter school entities already complete certain financial audits each year, and schools that receive more than \$750,000 in federal funding must complete an annual independent audit. The range for these engagements is between \$20,000 and \$30,000. Thus, the proposed regulatory requirements would increase business opportunities for Pennsylvania's approximately 40 auditing and CPA firms.

Charter school entities and school districts that use an information system to process invoices may need to update those systems to account for the new redirection process, but these expenses should not be material, since the process envisioned by the regulation is not substantially different from what currently exists. Employees in these offices may have to adjust internal processes to address the changes; any such efforts may be offset by school districts having additional information that can support timely, accurate payments to charter schools.

Current and future charter school entity employees will benefit by knowing their employers are required by statute and regulation to provide them with minimum health care benefits comparable to those of traditional public school employees.

This regulation will benefit taxpayers by ensuring that their financial investment in charter school entities is being accurately and reasonably represented. Relatedly, requiring that financial statements be prepared in accordance with GAAP, a standard accounting practice, ensures consistency in financial statements between charter school entities, which will allow for comparisons between organizations and is already possible with public school districts.

The proposed regulations impact small businesses to the extent that any educational management service providers are also for-profit entities with annual receipts of up to \$12 million. The Department is aware of at least two educational management service providers affiliated with charter schools in Pennsylvania that fit this description.

Transparency, equity, quality, and accountability in the establishment, governance, and operation of charter school entities are vital to ensuring that constituencies impacting charter school entities – including the boards of trustees that govern charter school entities, the for-profit and nonprofit organizations that play a role in the management of charter school entities, and authorizers of charter school entities – adhere to the structural norms that maintain the effectiveness of the CSL.

From a societal perspective, all public schools in Pennsylvania should be held to the same safeguards and high standards for accountability, transparency, quality, and equity. While many charter schools

are working hard to meet the needs of students in their communities, there are still too many cases of fraud and abuse, a lack of attention to equity, and no guarantee of innovation or excellence. Charter governing boards also must operate as public bodies and represent the communities and districts they serve. The oversight and transparency resulting from the proposed regulations address all of these concerns. These regulations will promote trust in the commonwealth's public education system and ensure the state is serving the collective good of all students and families.

The proposed regulation directly benefits students and ensures students have equal access to charter school education and are not discriminated against based on intellectual or physical ability or disability, as required under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Individuals with Disabilities Education Act (IDEA). In order for charter schools to contribute to the commonwealth's public education system, they must serve a diverse student body and not be permitted to have enrollment policies that discourage or preclude enrollment.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Initially, the Department, charter school entities, and authorizers may incur modest costs to implement the proposed regulations (e.g., revising enrollment policies, updating application materials, posting information on websites, etc.). However, charter entities are expected to receive nearly \$3 billion in publicly paid tuition during the 2020-21 school year, plus additional federal funding provided through federal pandemic emergency and recovery relief. The proposed regulations will ensure public awareness of the expenditure of this funding and divert funding from charter entities unable to meet the needs of their communities, engaged in unethical behavior, or not effectively using public dollars.

The benefits of the Department's proposed regulation include promoting 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. Transparency, equity, quality, and accountability in the establishment, governance, and operation of charter school entities are vital to ensuring that constituencies impacting charter school entities – including the boards of trustees that govern charter school entities, the for-profit and nonprofit organizations that play a role in the management of charter school entities, and authorizers of charter school entities – adhere to the structural norms that maintain the effectiveness of the CSL.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

To comply with the fiscal management and audit requirements, a charter school entity may need to contract with an accounting firm for an annual independent financial audit, which typically costs between \$20,000 and \$30,000. However, charter school entities are required to annually audit financial accounts in accordance with section 437 of the School Code. 24 P.S. §§ 4-437, 17-1719-A, 17-1749-A. Furthermore, charter schools that receive at least \$750,000 in Federal funds already contract with an auditing firm for an annual single audit. Currently, 148 charter school entities meet the minimum \$750,000 threshold.

There may be minor financial costs to charter school entities and school districts that use an information system to process invoices under the proposed redirection process. However, the process is not substantially different from how charter school entities produce invoices currently. Based on the Department experience, updating an accounting system costs around \$5,000.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

For purposes of this analysis, the Department has addressed local school district impacts in field 19, above. There will be no cost or savings to local (municipal) governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no additional cost to the Department's general funding to implement the regulation.

The Department anticipates it will realize a cost savings by receiving fewer redirection requests from charter school entities and having more information on which to reconcile the requests it does receive. Last year, the Department received approximately 14,000 redirection requests from charter school entities for amounts ranging from a few cents to a few million dollars. Based on the amount of time Department staff spend on processing each request and maintenance costs for the various information technology systems, the Department calculates that each redirection costs the state approximately \$15. At \$15 each, the annual cost to process 14,000 requests is \$210,000 a year. By streamlining the process and requiring charter school entities to invoice and wait at least 10 days for payment, the Department expects to realize a cost savings, along with increased capacity for other activities. Accordingly, the Department conservatively estimates it will receive 3,500 fewer requests at a total cost savings of \$52,500 a year.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

For the Department, there are no additional legal, accounting or consulting procedures. The Department will need to develop a model charter school application and update the cyber charter application to reflect the requirements in the proposed regulation and post those applications online. The Department also will need to revise the charter school redirection request form and update its electronic payment system to reflect the new redirection process. The applications and forms referenced in the regulation will be posted online and submitted electronically to the Department.

For charter school entities that already align policies and practices with the CSL and those of other public school entities, there will be no additional legal, accounting or consulting procedures, nor additional reporting, recordkeeping or other paperwork, including copies of forms or reports.

For charter school entities that will need to update policies and practices to implement the rulemaking and comply with provisions of the CSL, there may be a need to contract with an accounting firm to implement the fiscal management and audit requirements or to implement an annual independent financial audit. However, charter schools already are required to annually audit financial accounts in accordance with section 437 of the School Code. 24 P.S. §§ 4-437, 17-1719-A, 17-1749-A. Furthermore, charter schools that receive at least \$750,000 in federal funds already contract with an auditing firm for an annual single audit. Currently, 148 charter school entities meet the minimum \$750,000 threshold. Charter schools, regional charter schools, and cyber charter schools also may need to develop policies related to enrollment procedures, post those policies on their websites in an accessible format, and/or

add the policies and procedures to the student application for their schools. They also may need to provide their policy to their authorizer.

Charter school entities will need to update websites and applications to include enrollment policies if such policies are not currently posted.

Charter school entities and school districts that use an information system to process invoices may incur minor financial costs to implement the regulatory redirection process. However, the process is not substantially different from how schools produce invoices currently. Based on the Department's experience, updating an accounting system costs around \$5,000.

Authorizers of charter schools, regional charter schools, and cyber charter schools may need to revise existing charter school applications and supporting materials, and charter school applicants may need to provide different information, in a different form, depending on these standard applications.

For taxpayers and the public, the regulation carries no additional legal, accounting or consulting procedures or additional reporting, recordkeeping, or other paperwork, including copies of forms or reports.

(22a) Are forms required for implementation of the regulation? Yes

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

- **Charter School Application Form** – Charter school authorizers may use the charter school application that will be developed by the Department or their own application, provided it includes the items identified in proposed section 713.2 (c). When complete, the Department will post the template application on the Department's website in a widely used accessible format.
- **Cyber Charter School Application Form** – The Department will amend the current Cyber Charter School Application to be in compliance the items identified in proposed section 713.3. The current application is available at <https://www.education.pa.gov/Documents/K-12/Charter%20Schools/Applications/Charter%20School%20Application%20Fillable.pdf>
- **Redirection Form** – In accordance with proposed section 713.8, the Department will develop a web-based form for charter school entities to request subsidy redirection. The form will include the following information, as specified in proposed section 713.8(d):
 1. Name and contact information for the requesting charter school.
 2. Date of submission.
 3. For each student for which the charter school entity is seeking payment:
 - a. PAsecureID.
 - b. Home address.
 - c. School district of residence.
 - d. Date of birth.
 - e. Grade in which the student is enrolled at the charter school.
 - f. Date enrollment notification form was sent to school district of residence.
 - g. First day educated by the charter school.

- h. Last day educated by the charter school, if applicable.
 - i. Special education status, if applicable.
 - j. Date of current Individualized Education Plan (IEP), if applicable.
 - k. Date of prior IEP, if applicable.
4. The source of the tuition rate used by the charter school entity in its withholding request to the Department.

Schools will complete the form using the Charter School Redirection (CSR) within the Department's Consolidated Financial Reporting System (CFRS). The process will be completely web-based, with no documentation being submitted outside of CFRS.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year 20-21	FY +1 Year 21-22	FY +2 Year 22-23	FY +3 Year 23-24	FY +4 Year 24-25	FY +5 Year 25-26
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$52,500	\$52,500	\$52,500	\$52,500	\$52,500
Total Savings	\$0	\$52,500	\$52,500	\$52,500	\$52,500	\$52,500
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 17-18	FY -2 18-19	FY -1 19-20	Current FY 20-21
PDE Division of Charter Schools	\$2,235.82	\$367,556.21	\$501,832.88	\$318,002.57

PDE Division of Subsidy Administration	\$183,624.93	\$123,000.42	\$168,048.39	\$162,419.97

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Although this regulation primarily impacts charter schools, regional charter schools, and cyber charter schools, which must be organized as a public, nonprofit corporations as defined in the CSL and Annex of this regulation, it is possible that some charter schools, regional charter schools, and cyber charter schools are organized as businesses and that some educational § providers affiliated with charter schools, regional charter schools, and cyber charter schools may qualify as small businesses under the definition cited in the Regulatory Review Act.

A dozen or more Pennsylvania charter schools, regional charter schools, and cyber charter schools received Paycheck Protection Program (PPP) loans in 2020 under the federal CARES Act, which may indicate they qualify as small businesses, although the program was also open to not-for-profit organizations. Among those, only Crispus Attucks Charter School in York is classified in Small Business Administration data as a “corporation;” the others are classified as having not-for-profit status. Recipients of PPP include Erie Rise Leadership Academy Charter School, Young Scholars of Central Pennsylvania Charter School, Passport Academy Charter School, Franklin Towne Charter High School, Collegium Charter School, Chester Community Charter, Esperanza Academy Charter, Crispus Attucks Charter School, I-Lead, KIPP, and two cyber charter schools: Pennsylvania Leadership Charter and Pennsylvania Virtual Charter.

PDE has limited information on the scope and size of educational management service providers. To be impacted, providers would have to be for-profit entities with annual receipts of up to \$12 million. The Department is aware of at least two educational management service providers affiliated with charter schools in Pennsylvania that fit this description. The proposed regulation is unlikely to affect educational management service providers that focus on curriculum or other related services.

Reporting, recordkeeping, and other administrative costs would not exceed those required by law for all public school entities; it would only require a change in practice for any educational management service providers not already undertaking these activities on behalf of client charter school entities. Regardless of current practices, clarity of requirements will ultimately lower the cost of doing business and facilitate sound long-term financial planning.

The regulations are focused on clarifying statutory requirements. As such, there is not a less intrusive or less costly alternative to achieve the purpose of this proposed regulation.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The regulations do not include any special provisions.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative provisions were considered. The Department deems the proposed regulation to be the least burdensome option for carrying out the identified portions of the CSL.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

Except as described in field 24, small businesses are not part of the regulated community affected by the proposed rulemaking, and the Department does not anticipate an adverse impact as a result of this proposed regulation.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data from the America Rescue Plan Act of 2021 (Pub L. No 117-1), Elementary and Secondary School Emergency Relief Fund Allocations to Title I-A recipients, which can be found on the PDE website, informed the economic impact of requiring charter schools to obtain independent audits.

Data from the Pennsylvania Charter School Enrollment - 2020-2021, which is reported to PDE annually by charter school entities and is posted on the PDE website, was used to assess the footprint of the charter school sector in Pennsylvania.

The following reports informed the quality and standards requirements of the contents of the charter school applications:

- *Charter School Performance in Pennsylvania*, CREDO (Center for Research on Education Outcomes), Stanford University, 2019.
- *Equity-Focused Charter School Authorizing Toolkit* (November 2019)
- J.L. Woodworth, et al., *Charter Management Organizations: 2017*, CREDO, Stanford University, 2017.
- J.L. Woodworth, et al., *Online Charter School Study: 2015*, Center for Research on Education Outcomes (CREDO), Stanford University, 2015.

(29) Include a schedule for review of the regulation including:

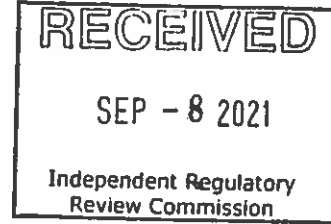
- | | |
|---|---|
| A. The length of the public comment period: | <u>30 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Summer 2021</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication of the final-form regulation in the Pa. Bulletin.</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Upon publication of the final-form regulation in the Pa. Bulletin.</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.


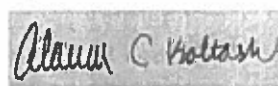
The Department of Education will review the rulemaking on a regular basis and closely monitor these regulations for their effectiveness and recommend updates as needed.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)



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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>Amy M. Elliott BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Notary Deputy Attorney General serial=20210902001927, email=am Elliott@attorneygeneral.gov, c=US Date: 2021.09.02 00:19:27 -0400</small></p> <p><u>9/2/21</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p align="center"><u>Pennsylvania Department of Education</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>006-349</u></p> <p>DATE OF ADOPTION _____</p> <p align="center"></p> <p>BY: _____</p> <p>TITLE <u>Acting Secretary</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: </p> <p><u>May 7, 2021</u> DATE OF APPROVAL</p> <p>(Not for General Counsel) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PROPOSED RULEMAKING
DEPARTMENT OF EDUCATION
CHARTER SCHOOLS
CHARTER SCHOOLS AND CYBER CHARTER SCHOOLS
22 PA. CODE CHAPTER 713

NOTICE OF PROPOSED RULEMAKING

PREAMBLE

DEPARTMENT OF EDUCATION

22 PA. CODE CH. 713

CHARTER SCHOOLS AND CYBER CHARTER SCHOOLS

The Department of Education (Department) proposes to add Chapter 713 (relating to charter schools and cyber charter schools) to Title 22 (relating to education) of the Pennsylvania Code to read as set forth in Annex A.

Statutory Authority

Sections 1732-A(c) and 1751-A of the Charter School Law (CSL) (24 P.S. §§ 17-1732-A(c) and 17-1751-A) authorize the Pennsylvania Department of Education (Department) to promulgate regulations relating to charter school entities and to implement the CSL (24 P.S. §§ 17-1701-A – 17-1751-A). The Department is exercising this authority with this proposed rulemaking to add a new chapter under Part XX (relating to charter schools) of Title 22 of the Pennsylvania Code.

Purpose and Background

In enacting Pennsylvania's Charter School Law in 1997, the General Assembly intended, as described in section 1702-A of the CSL, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain charter schools that operate independently from the existing school district structure as a method to:

- Improve pupil learning.
- Increase learning opportunities for all pupils.

- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- Hold the schools established under the CSL accountable for meeting measurable academic standards and provide the school with a method to establish accountability systems.

At the heart of these principles is the idea that charter schools will serve as laboratories of innovation; however, apart from amendments enacted in 2001 to authorize the establishment of cyber charter schools, the CSL has remained largely unchanged since its enactment.

Charter school entities are generally divided into four types—charter schools, regional charter schools, cyber charter schools, and multiple charter school organizations. Both charter schools and regional charter schools are independent public schools established and operated under a charter from the local school board or boards and in which students physically attend. These schools are commonly referred to as “brick-and-mortar” charter schools and focus on teacher-led discussion and teacher knowledge imparted to students through face-to-face interaction at the schools’ physical facilities located within the boundaries of the school district or districts that granted the charter. A cyber charter school is an independent public school established and operated under a charter from the Department. Cyber charter schools use technology in order to provide a significant portion of curriculum and to deliver a significant portion of instruction to its students through the internet or other electronic means without a school-established requirement that students be present at a supervised physical facility

designated by the school, except on a very limited basis, such as for standardized assessments. The fourth type of charter school entity is a multiple charter school organization (MCSO). Section 1729.1-A of the CSL permits, under certain circumstances, the merger of two or more existing charter schools or regional charter schools into a MSCO, which may operate under the oversight of a single board of trustees and a chief administrator. An MCSO is considered the holder of a charter for each individual charter school in the organization but is not a charter school itself. 24 P.S. § 17-1729.1-A(e). There are currently no MCSOs operating in Pennsylvania.

The Department's proposed regulation will 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. Charter schools are expected to receive nearly \$3 billion in publicly paid tuition during the 2020-21 school year, plus additional federal funding provided through federal pandemic emergency and recovery relief. Accordingly, the Department is proposing regulations to ensure public awareness of the expenditure of these resources.

Transparency, equity, quality, and accountability in the establishment, governance, and operation of charter school entities are vital to ensuring that constituencies impacting charter school entities – including the boards of trustees that govern charter school entities, the for-profit and nonprofit organizations that play a role in the management of charter school entities, and authorizers of charter school entities – adhere to the structural norms that maintain the effectiveness of the CSL.

The regulation is not mandated by any federal or state law or court order or federal regulation. However, the Commonwealth Court, in *Insight PA Cyber Charter School v.*

Department of Education, 162 A.3d 591 (Pa. Cmwlth. 2017), noted “the Department has the express authority to promulgate regulations to implement the portions of the [Charter School Law] relating to cyber charter schools...” and that, in the context of management organization contracts, promulgated regulations “would be beneficial to charter school applicants and chartering authorities.”

On August 24, 2019, the Department published an advance notice of proposed rulemaking (ANPR) in the *Pennsylvania Bulletin* announcing its intention to exercise its statutory authority and submit a rulemaking to amend Part XX (related to charter schools) of Title 22 of the Pennsylvania Code. There was no time limit for submitting public comment, and a link to the ANPR has been available on the Department’s website since August 2019. On November 22, 2019, the Department also hosted a public roundtable in State College for interested stakeholders to provide feedback on priorities as outlined in the ANPR. To date, the Department has received approximately 50 comments from stakeholders. While most comments concerned desired statutory changes, other commenters addressed important goals of this rulemaking.

In a letter to the Secretary of Education, the solicitor for the School District of Pittsburgh wrote, “It is our hope that these proposed regulations, when combined with comprehensive charter reform legislation...will address several important tasks. Among these are to codify charter case law in areas where the Charter School Law (CSL) has been interpreted by the Courts; to clarify open questions regarding charter funding, to improve charter schools’ transparency and accountability and to begin to right the imbalance between school districts and charter schools that is imbedded into current law and policy.” More specifically, the School District of Pittsburgh supports the development of a statewide application for charter applicants and charter renewals, better enforcement of non-discriminatory enrollment practices, clarification that charter school

board trustees are subject to the Public Official and Employee Ethics Act, requirements that educational management service providers be more transparent about expenditure of public funds, and enactment of generally accepted standards of fiscal management and audit requirements.

Organizations such as Asian Americans United, Education Law Center-PA, Justice At Work, Nationalities Service Center, VietLead, IHAS-PA, and Arc of Greater Pittsburgh/ACHIEVEA expressed support for comprehensive regulatory reform to ensure charter schools, as public schools, are equitably and inclusively educating all students, including students with disabilities, English Learners, and other students historically less served by charter schools.

On March 11, 2021, the Pennsylvania Coalition for Public Charter Schools (PCPCS) sent a letter to Governor Wolf, Acting Secretary of Education Noe Ortega, members of the General Assembly, and the superintendents of the School District of Philadelphia and School District of Pittsburgh, calling for “meaningful reforms to Pennsylvania School Law and Public School Code that improves the quality of education for every public school student in charter schools and school districts.” In its letter, PCPCS calls for a more defined and consistent process for new charter school applications to ensure the process is “fair, equitable, and efficient.” PCPCS further indicates support for modifying the payment process between public school districts, charter schools and the Department to reduce conflicts over non-payments. Finally, PCPCS argues for codification of additional accountability and transparency standards for all public schools. The proposed regulation addresses each of these aims.

Relatedly, as of April 5, 2021, a total of 396 school districts, nearly 80% of public school districts, across Pennsylvania have adopted resolutions calling for charter reform that includes transparency and accountability.

Requirements of the Proposed Rulemaking

This proposed rulemaking clarifies the minimum standard for charter school, regional charter school and cyber charter school application requirements, ensures non-discriminatory student enrollment policies as required by the CSL, clarifies that charter school entities' boards of trustees are subject to 65 Pa.C.S. §§ 1101-1113 (relating to the Public Official and Employee Ethics Act), requires the use of generally accepted principles for accounting and auditing, details the tuition payment redirection process for charter school entities and school districts, and specifies minimum standards for the provision of health care benefits for employees of charter schools, regional charter schools and cyber charter schools.

Section 713.1 establishes definitions for the following terms used in the proposed regulation: authorizer, charter school, charter school entity, Charter School Law, cyber charter school, Department, educational management service provider, English Learner, multiple charter school organization, PAsecureID, regional charter school, School Code, and Secretary. The Department did not include the term "economically disadvantaged" in the definitions, since leaving this term undefined will not lead to confusion for the regulated community but defining the term could lead to unintended consequences in other contexts.

Section 713.2 seeks to promulgate regulations related to the content of a charter school or regional charter school application required under section 1719-A of the CSL (24 P.S. § 17-1719-A). A charter school is a public school that operates independently of school districts pursuant to a charter issued by a local board of school directors or a board of public education. A regional charter school is a public school that operates independently of school districts pursuant to a charter issued by more than one local board of school directors or boards of education. As required under section 1719-A of the CSL, individuals interested in establishing a charter school or regional charter school must submit an application to the local board of school directors of the school

district or districts in which the charter school or regional charter school will be located. Ensuring that such applications conform to statutory requirements—and are well understood by charter school organizers, charter school authorizers, and stakeholders—is an important aim of this rulemaking. A rigorous charter application process allows authorizers to hold prospective charter schools to high standards academically, fiscally, and administratively, and helps authorizers ensure charter schools are prepared to equitably serve all students. As such, § 713.2 requires applicants seeking to operate a charter school or regional charter school to apply using either an application form created by the Department that includes minimum information requirements set forth in § 713.2(c) or an application developed by the authorizing school district or districts if such application meets the minimum requirements set forth in § 713.2(c) and is needed by the local board of directors, as the authorizer, to evaluate the application in accordance with section 1717-A(e)(2) of the CSL (24 P.S. § 17-1717-A(e)(2)).

Section 713.2(c) of the proposed regulation clarifies minimum standards for each application requirement specified in section 1719-A of the CSL (24 P.S. § 17-1719-A). Subsection (c)(1) and (c)(2) relate to contact information for the school. Subsection (c)(3) details data that must be provided for each grade and age level the school intends to serve. Subsection (c)(4) outlines the artifacts that a charter school or regional charter school must provide related to governance structure. Subsection (c)(5) requires the charter school or regional charter school to provide the authorizer with its mission and vision as well as curriculum and assessment strategies. Subsection (c)(6) clarifies information to be provided related to the school's admission policy. Subsection (c)(7) relates to the charter school's or regional charter school's planned procedures for suspending or expelling students. Subsection (c)(8) requires information as to how the school will engage community groups in the school planning process. Subsection (c)(9) details the

artifacts and data that a charter school or regional charter school must provide as part of its financial plan and auditing requirements under section 437 of the School Code (24 P.S. § 4-437). Subsection (c)(10) relates to the procedures the school will use to review and address complaints from parents and families regarding the operation of the school. Subsection (c)(11) requires the charter school to submit a school calendar consistent with the provisions of section 1502 of the School Code (24 P.S. § 15-1502). Subsection (c)(12) clarifies the type of information that must be submitted as part of the description of the charter school's physical facility and arrangements. Subsection (c)(13) details information to be included in the school's proposed faculty and professional development plan for the proposed faculty that complies with 22 Pa. Code Chapters 4 and 49 (relating to academic standards and assessment and certification of professional personnel). Subsection (c)(14) relates to extracurricular activities. Subsections (c)(15) and (c)(16) clarify that criminal history records and child abuse clearances are required for all employees having direct contact with students and requires the applicant to provide certain information. Subsection (c)(17) clarifies how a charter school or regional charter school must demonstrate its ability to provide adequate liability and other appropriate insurance for the charter school, its employees, and the board of trustees as required by section 1719-A of the CSL (24 P.S. § 17-1719-A).

Similarly, § 713.3 seeks to promulgate regulations related to the content of cyber charter school applications under section 1747-A of the CSL (24 P.S. § 17-1747-A). Specifically, § 713.3 requires applicants seeking to operate a cyber charter school in the Commonwealth to apply using an application form created by the Department that includes the items identified in § 713.2(c) and the provisions of section 1747-A of the CSL (24 P.S. § 17-1747-A).

Section 713.4 seeks to promulgate regulations related to section 1723-A of the CSL (24 P.S. § 17-1723-A) as it pertains to the admissions policies of charter schools and regional charter schools. Section 1723-A of the CSL provides that all children in the Commonwealth qualify for admission to a charter school or regional charter school as provided for in that section, and it permits a charter school or regional charter schools to adopt admission policies and practices if certain criteria are met. Under section 1723-A of the CSL, if more students apply to the charter school or regional charter school than the number of attendance slots available in the school building, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria, with limited exceptions. Sections 713.4 (b) and (c) set minimum requirements for charter school or regional charter school random selection policies and require such policies be included in application or renewal application materials. Subsection (c) requires the policy to be posted on the school's publicly available website and accessible to all potential applicants, including individuals with limited English proficiency. Subsection (d) sets forth information, that charter schools and regional charter schools must include in annual reports to better assure transparency. Through this regulation, charter schools and regional charter schools can ensure their admission policies are transparent to the public they serve, and community taxpayers, families, and students will know exactly how preferences in admissions are considered and weighted. The proposed regulation directly benefits students and ensures students have equal access to charter school education and are not discriminated against based on intellectual or physical ability or disability, as required under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Individuals with Disabilities Education Act (IDEA).

Section 713.5 seeks to promulgate regulations related to section 1723-A of the CSL (24 P.S. § 17-1723-A) (as applied to cyber charter schools in section 1749-A of the CSL) as they pertain to the admission policies of cyber charter schools. Under section 1723-A of the CSL (24 P.S. § 17-1723-A), all resident children in the Commonwealth qualify for admission to a cyber charter school. A cyber charter school may not restrict admission or enrollment based on availability of attendance slots unless such terms are agreed to by the Department and the cyber charter school as part of a written charter pursuant to sections 1723-A(d) and 1745-A of the CSL (24 P.S. § 17-1723-A; 17-1745-A). Therefore, section 713.5 sets minimum requirements for a cyber charter school to ensure random selection of students should more students apply than the number of attendance slots the cyber charter school's charter allows. Similar to section 713.4, section 713.5(c) would require a cyber charter school to make the enrollment policy publicly available on the school's website. Section 713.5(d) sets forth data elements a cyber charter school must include in its annual report related to its number of total and qualified applicants and number of students offered and accepted enrollment in the most recent school year. The proposed regulation directly benefits students and ensures students have equal access to charter school education and are not discriminated against based on intellectual or physical ability or disability, as required under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and IDEA.

Both § 713.4(c)(4) and § 713.5(c)(4) require charter schools, regional charter schools, and cyber charter schools, when applicable, to make their enrollment policies accessible to the public, including to parents with limited English proficiency and individuals with a disability. This requirement is intended to ensure that all students and parents, including parents with limited English proficiency or individuals with disabilities, are able to access and understand the

information, consistent with Title VI of the Civil Rights Act of 1964 and existing obligations to parents with disabilities under the Americans with Disabilities Act (ADA).

Section 713.6 seeks to promulgate regulations related to members of a charter school entity's board of trustees under sections 1715-A and 1716-A of the CSL (as applied to cyber charter schools in section 1749-A of the CSL). Under section 1715-A(11) of the CSL, members of a charter school entity's board of trustees are public officials. For clarity, § 713.6(a) confirms charter school entity's board of trustees are public officials subject to 65 Pa.C.S. §§ 1101-1113 (relating to the Public Official and Employee Ethics Act). Section 713.6(b) clarifies the requirement that trustee file a statement of financial interest with the charter school's board of trustees, State Ethics Commission, and each authorizer of the charter school entity. Section 716.6 (c) - (f) clarify that board of trustee members must recuse themselves from any selection, award, administration, or contract decisions that present a conflict of interest, may not engage in other activity that constitutes a conflict of interest, and sets forth the penalties imposed for violations.

Section 713.7 seeks to promulgate regulations related to section 1729-A of the CSL (24 P.S. § 17-1729-A) (and applied to cyber charter schools in section 1749-A of the CSL), which requires a charter school entity to meet generally accepted standards of fiscal management and audit requirements or face nonrenewal or termination of its charter. In addition, section 1719-A(9) of the CSL (and applied to cyber charter schools in section 1749-A of the CSL) requires a charter school application to include the provisions which will be made for auditing the school under section 437 of the Public School Code of 1949 (School Code) (24 P.S. § 4-437), which requires "[t]he accounts of the school treasurer shall be audited annually as hereinafter provided." Section 713.7(a) clarifies that charter school entities must adhere to generally accepted standards of fiscal management and audit requirements. Section 713.7 (b) and (c) set forth minimum requirements

for charter school entities to satisfy those requirements, such as using Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS), and by obtaining independent annual financial audits. Section 713.7(c) identifies the components of those audits. Consistent, standards of fiscal management and audit requirements will make it easier for charter school authorizers to annually assess a charter school entity's operation and financial health, as required by the CSL.

Section 713.8 seeks to promulgate regulations pertaining to section 1725-A(a)(5) of the CSL (24 P.S. § 17-1725-A(a)(5)) (and applied to cyber charter schools in section 1749-A of the CSL). Under section 1725-A of the CSL, a charter school entity may request the Department redirect a school district's subsidy to the charter school entity when the school district fails to pay the charter school entity for educating resident students. Section 713.8(a) requires charter school entities to invoice school districts at least 10 days before the 5th of each month. Section 713.8(b) requires school districts to make payment by the 5th of each month. Section 713.8 (c) and (d) outline a process and timeline for charter school entities to submit redirection requests to the Department, including use of a standard form developed by the Department that includes information that will assist school districts with reconciling disputes. The process outlined in the proposed regulation will provide predictability and transparency for both charter schools and the school districts from which they are seeking payment by creating an orderly process whereby a charter school must submit enrollment information to the school district enables school districts to meet their statutory requirement to make payment by the fifth of each month. In addition, the proposed regulation clarifies the process when a school district fails to make payment and the charter school may submit a redirection request to the Department. Fewer redirection requests will allow the Department to realize cost savings and reallocate limited staff time to other urgent duties.

Section 713.9 seeks to promulgate regulations related to section 1724-A of the CSL (24 P.S. § 17-1724-A) (as applied to cyber charter schools in section 1749-A of the CSL), which requires that every employee of a charter school be provided the same health care benefits the employee would receive if they worked for the chartering school district. Section 713.9 specifies how a charter school, regional charter school or a cyber charter school shall meet this statutory requirement and requires each charter school, regional charter school, or cyber charter school to inform their employees of their legal right to the same health care benefits they would be provided if they were employees of the local district. Section 713.9(a) clarifies that a charter school is to provide the same health care benefits as the authorizing school district. Section 713.9(b) directs regional charter schools and cyber charter schools, which serve students from multiple school districts, to use the school district within which the regional charter school's or cyber charter school's administrative office is located as the comparison. Section 713.9 (c) and (d) require all charter schools, regional charter schools, and cyber charter schools to inform employees of their healthcare options, including a comparison of what they would have been offered if they were employees of the local district. Section 713.9(e) affirms the right of the charter school entity's authorizer to audit the health care benefits provided by the charter school entity under section 1724-A(d) of the CSL (24 P.S. § 17-1724-A(d)). Given the variations in health care plans, it is impossible for a charter school to offer an *identical* health care plan to its employees; health care plan contribution levels also differ by school entity and location. Therefore, section 713.9 does not require charter schools to spend a specific amount on health care plans or include specific benefits. Rather the proposed regulation only requires charter school employees have health care plans subsidized by their employer (i.e., the charter school) to the same extent that district employees have their plans subsidized by their employer (i.e., the school district). For example, if a school

district employee and charter school employee both have coverage for a particular treatment, but the charter school employee pays more for that treatment than the school district employee, the charter school's plan would not comply with section 1724-A(d) of the CSL because the health care plans are not meaningfully the same.

Affected Parties

This regulation affects the Department, all 500 school districts in this Commonwealth, the approximately 163 charter schools and regional charter schools currently in operation, 14 cyber charter schools currently authorized to operate in Pennsylvania, and any entity interested in establishing a charter school entity in Pennsylvania in the future; all current and future charter school entity boards of trustees and member trustees; educational management service providers hired by charter school entities; auditing and accounting firms in Pennsylvania contracted by charter school entities; and all current and future charter school entity employees.

Fiscal Impact

Implementation will not require additional staffing or costs for the Department. The Department expects to rely on previously established procedures and any burden in adapting those procedures to comply with the regulations would be negligible. Last year, the Department received approximately 14,000 redirection requests from charter school entities. It costs the Department approximately \$15 to process each redirection request. Processing these requests cost the Department an estimated \$210,000. The proposed regulation is expected to help the Department achieve efficiencies, as a more standard process for seeking and administering redirection requests can be expected to reduce the number of such redirection requests over time and allow for quicker resolution when redirection and reconciliation requests do occur. The Department conservatively estimates it will see 3,500 fewer requests at a total cost savings of \$52,500 a year.

For charter school entities that already align policies and practices with the CSL, the Department expects charter school entities will rely on currently established procedures and any burden in adapting those procedures to comply with the regulations would be negligible. For charter school entities where this is not the case, the proposed regulation may have practical costs or adverse financial effects. However, the Department does not anticipate any greater cost or adverse effect to the charter school entity community as a whole, because of the rulemaking.

To comply with the fiscal management and audit requirements, a charter school entity may need to contract with an accounting firm for an annual independent financial audit, which typically costs between \$20,000 and \$30,000. However, charter school entities are required to annually audit financial accounts in accordance with section 437 of the School Code. 24 P.S. §§ 4-437, 17-1719-A, and 17-1749-A. Furthermore, charter school entities that receive at least \$750,000 in Federal funds already contract with an auditing firm for an annual single audit. Currently, 148 charter school entities meet the minimum \$750,000 threshold.

There may be minor financial costs to charter school entities and school districts that use an information system to process invoices under the proposed redirection process. However, the process is not substantially different from how schools produce invoices currently. Based on the Department's experience, updating an accounting system costs around \$5,000.

There are no anticipated fiscal impacts to local governments.

Paperwork Requirements

For the Department, there are no additional legal, accounting or consulting procedures. The Department will need to develop a model charter school application and update the cyber charter application to reflect the requirements in the proposed regulation and post those applications online. The Department also will need to revise the charter school redirection request form and

update its electronic payment system to reflect the new redirection process. The applications and forms referenced in the regulation will be submitted electronically to the Department. Schools will complete the redirection form using the Charter School Redirection module within the Department's Consolidated Financial Reporting System (CFRS). The process is completely web-based, with no documentation submitted outside of CFRS.

For charter school entities that already align policies and practices with those of other public school entities, there will be no additional legal, accounting or consulting procedures, nor additional reporting, recordkeeping, or other paperwork, including copies of forms or reports.

For charter school entities that will need to update policies and practices to implement the rulemaking and comply with provisions of the CSL, there may be a need to contract with an accounting firm to implement the fiscal management and audit requirements or to implement an annual independent financial audit. However, any public school that receives at least \$750,000 in federal funds already contracts with an auditing firm for an annual single audit. Under the American Rescue Plan (ARP) Act of 2021 (Pub. L. No. 117-2), all eligible school districts and charter school entities were allocated funding through the Elementary and Secondary School Emergency Relief Fund (ARP ESSER). All but 32 charter school entities are estimated to receive more than \$750,000 in Federal APR ESSER funds beginning in spring 2021. Charter schools, regional charter schools, and cyber charter schools also may need to develop policies related to enrollment procedures, post those policies on their websites in an accessible format, and add the policies and procedures to the student application for their schools. They also may need to provide their policy to their authorizer. If a charter school contracts with an educational management service provider, the provider may need to make available additional information for the charter school to meet the application requirements in section 713.2(c)(4)(iv).

School districts that authorize charter schools or regional charter schools may need to revise existing charter school applications and supporting materials, and charter school applicants may need to provide different information, in a different form, depending on the standard applications that is developed by the Department under section 713.2 of the proposed regulations.

For taxpayers and the public, the regulation carries no additional legal, accounting or consulting procedures or additional reporting, recordkeeping, or other paperwork, including copies of forms or reports.

Effective Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

No sunset date is necessary. The Department will review on a regular basis in accordance with the Department's policy and practice respecting all its regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on _____, 2021, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations, or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed

procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comments and Contact Person

Interested individuals and organizations may access the proposed regulations at www.education.pa.gov.

Interested persons and individuals affiliated with small businesses are invited to submit written comments, questions, suggestions, commendations, concerns, or objections regarding this proposed rulemaking to the Division of Charter Schools at RA-EDCharterRegs@pa.gov.

Alternatively, comments may be mailed to the Division of Charter Schools, Pennsylvania Department of Education, 333 Market Street, 3rd Floor, Harrisburg, PA 17126, if individuals are not able to submit comments electronically. Comments must be submitted within 30 days of publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

For further information contact Randy Seely, Division Chief, Division of Charter Schools, rseely@pa.gov, or Eric Levis, Deputy Policy Director, elevis@pa.gov.

Noe Ortega
Secretary of Education

Annex A

TITLE 22. EDUCATION

PART XX. CHARTER SCHOOLS

CHAPTER 713. CHARTER SCHOOLS AND CYBER CHARTER SCHOOLS

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GENERAL PROVISIONS

§ 713.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

- (a) *Authorizer* – (1) a board of school directors, (2) a board of public education of a school district, or (3) the Department, for a cyber charter school.
- (b) *Charter school* – an independent public school established and operated under a charter from the local board of school directors or board of public education of a school district in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation.
- (c) *Charter school entity* – a charter school, regional charter school, cyber charter school or multiple charter school organization.
- (d) *Charter School Law* – Article XVII-A of the School Code (24 P.S. §§ 17-1701-A – 17-1751-A).
- (e) *Cyber charter school* – an independent public school established and operated under a charter from the Department in which the school uses technology to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means. A cyber charter school must be organized as a public, nonprofit corporation.
- (f) *Department* – the Department of Education of the Commonwealth.
- (g) *Educational management service provider* – a nonprofit or for-profit charter management organization, education management organization, school design provider,

business manager or any other entity or 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. The term shall not include a charter school foundation.

- (h) *English Learner* – A student with limited English language proficiency who: 1) was not born in the United States or whose native language is other than English and comes from an environment where a language other than English is dominant; or is a Native American or Alaska Native who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such an individual's level of English language proficiency; or is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and 2) has sufficient difficulty speaking, reading, writing or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in an English speaking society.
- (i) *Multiple charter school organization* – a public, nonprofit corporation under the oversight of a single board of trustees and a chief administrator that operates two (2) or more charter schools or regional charter schools under section 1729.1-A of the Charter School Law (24 P.S. § 17-1729.1-A).
- (j) *PAsecureID* – A unique, permanent, anonymous state-wide student identification assigned to all students upon their first entry into the Commonwealth's public school system.
- (k) *Regional charter school* – an independent public school established and operated under

a charter from more than one local board of school directors or board of public education in which students are enrolled or attend. A regional charter school must be organized as a public, nonprofit corporation.

(l) *School Code* – the Public School Code of 1949 (24 P.S. §§ 1-101 – 27-2702).

(m) *Secretary* – the Secretary of Education of the commonwealth.

APPLICATION REQUIREMENTS

§ 713.2. Contents of Charter School or Regional Charter School Application

- (a) An applicant seeking to operate a charter school or regional charter school shall submit an application on one of the following forms:
 - (1) The application form created by the Department, which includes the items identified in subsection (c).
 - (2) The application form created and adopted by an authorizer of a charter school or regional charter school, which, at a minimum, includes the information identified in subsection (c).
- (b) An authorizer may require an applicant submit additional information for the local board of directors to evaluate the application in accordance with section 1717-A(e)(2) of the Charter School Law (24 P.S. § 17-1717-A(e)(2)).
- (c) The application forms in subsection (a) must, at a minimum, include the following:
 - (1) Name, address, phone number and email address of the charter school or regional charter school applicant.
 - (2) Name of the proposed charter school or regional charter school.

- (3) For each grade or age level proposed to be served by the charter school or regional charter school:
- (i) Projected overall enrollment.
 - (ii) Projected number of students receiving special education services by primary disability. Students may only be counted in one disability category.
 - (iii) Projected number of English Learners.
 - (iv) Projected composition of the student population by race, ethnicity, and students who are economically disadvantaged.
- (4) Proposed governance structure of the charter school or regional charter school, including:
- (i) Articles of incorporation filed with the Pennsylvania Department of State.
 - (ii) By-laws and operating agreement or equivalent document adopted by the applicant for the general governance of the charter school or regional charter school.
 - (iii) An organizational chart showing the proposed governance structure of the charter school or regional charter school, including lines of authority and reporting among the board of trustees, administrators, staff, and any educational management service provider with which the charter school or regional charter school has contracted or intends to contract.
 - (iv) A description of the roles and responsibilities of the board of trustees, administrators, a charter school foundation, if applicable, and any other entities shown in the organizational chart, including any educational management service provider. This includes:

- (A) A description of the process for appointing or electing of members of the charter school's or regional charter school's board of trustees.
- (B) A description of the roles and responsibilities of the chief executive officer.
- (C) A description of any additional administrative staff who may be employed by the charter school or regional charter school and a description of their roles and responsibilities.
- (D) Name of any foundation or other entity with which the school will be associated and its financial status (for example, an organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3))).
- (v) Standards for board of trustees' performance, including compliance with all applicable laws, regulations, and terms of the charter.
- (vi) If the charter school or regional charter school has contracted with or intends to contract with an educational management service provider, the following shall be provided:
 - (A) Evidence of the educational management service provider's record in serving student populations, including demonstrated academic achievement and growth.
 - (B) Demonstrated management of nonacademic school functions, including proficiency with public school-based accounting, if applicable.
 - (C) The final or proposed contract between the charter school or regional charter school and the educational management service provider.

- (D) Names and contact information for the officers, chief administrator, and administrators of the educational management service provider.
 - (E) Proposed duration of the service contract, for a term not to exceed the length of the charter term.
 - (F) Roles and responsibilities of the board of trustees, the charter school's or regional charter school's staff, and the educational management service provider.
 - (G) The scope of services, personnel, and resources to be provided by the educational management service provider.
 - (H) Methods of contract oversight and enforcement.
 - (I) Conditions for renewal and termination of the contract.
 - (J) The compensation structure, including clear identification of all fees to be paid to the educational management service provider, to include a total of fees expressed as a percentage of all school expenditures.
 - (K) Performance evaluation measures and timelines.
 - (L) Disclosure of any investment or planned investment or advance of moneys or planned advance of moneys by the educational management service provider on behalf of the charter school or regional charter school.
 - (M) Disclosure and explanation of any existing or potential conflicts of interest between the members of the board of trustees and the proposed educational management service provider.
- (vii) If the charter school or regional charter school has or intends to have any affiliated business entities, including a charter school foundation qualified as a

support organization under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1-9834.), the charter school or regional charter school must provide a disclosure and explanation of any existing or potential conflicts of interest between the members of the board of trustees and the proposed affiliated business entities.

(5) Mission and education goals of the charter school or regional charter school, including:

- (i) Mission, vision, and program overview, including education purpose and demonstrated, sustainable support for the charter school or regional charter school.
- (ii) Curriculum to be offered, including:
 - (A) Overview of instructional delivery model for all planned subjects.
 - (B) Pedagogical learning approach (for example, independent study, multi-age or grade level groupings, flexible student groupings, competency-based learning, multi-tiered support system).
 - (C) Plans for meeting the needs of at-risk students, including English Learners and students with disabilities.
- (iii) Methods of assessing whether students, including at-risk students such as English Learners and students with disabilities, are meeting educational goals, including:
 - (A) Accountability, student assessment, and evaluation.
 - (B) Student performance standards.
 - (C) High school graduation requirements, if applicable.

(6) Admission policy, including:

- (i) Criteria for evaluating the admission of students in accordance with section 1723-A of the Charter School Law (24 P.S. § 17-1723-A) and this Chapter.**
- (ii) Enrollment capacity by grade level.**
- (iii) A description of how the charter school or regional charter school will make all prospective students aware of the school's program.**

(7) Procedures regarding suspension or expulsion of students, including:

- (i) An explanation of the proposed philosophy on student discipline.**
- (ii) A copy of the charter school's or regional charter school's Student Code of Conduct.**
- (iii) An explanation of due process procedures that will be followed prior to administering any exclusionary discipline, including specifics for students with disabilities.**
- (iv) A description of how parents or guardians will be advised of students struggling in academic, social, emotional, or behavioral performance.**
- (v) A description of how the charter school or regional charter school will assess and systematically address disparities in implementation of discipline practices among student groups.**

(8) Information on how community groups will be involved in the charter school or regional charter school planning process.

(9) The financial plan for the charter school or regional charter school and the provisions for auditing the school under section 437 of the School Code (24 P.S. § 4-437) and this Chapter. This includes, but is not limited to:

- (i) A proposed 5-year general fund budget by account code, in accordance with the Department's Chart of Accounts for PA Local Educational Agencies, that includes revenues and expenditures.
 - (ii) The anticipated sum of revenues and expenditures not accounted in the account codes.
 - (iii) The budgeted fund balance for the proposed first year of operation and unrestricted fund balances for each year of the charter term.
- (10) Procedures for reviewing and addressing complaints from parents, guardians, and families regarding the operation of the charter school or regional charter school.
- (11) The proposed school calendar for the charter school or regional charter school, including the length of the school day and school year consistent with the provisions of section 1502 of the School Code (24 P.S. § 15-1502).
- (12) A description and address of the physical facility in which the charter school or regional charter school will be located, the ownership thereof, and any lease arrangements, including:
 - (i) Whether the facility will be leased or owned.
 - (ii) Anticipated monthly mortgage or lease payments, and any estimated additional monthly payments (for example, utilities, property taxes, common space custodial services, and the like).
 - (iii) How the facility is suitable for the proposed school.
 - (iv) Square footage for each space where instruction of students will occur and a description of how the space will be used (for example, kindergarten classroom, gymnasium for physical education, music instruction, and the like).

(v) Safety protocols for the facility.

(13) The proposed faculty and a professional development plan for the proposed faculty of the charter school or regional charter school that complies with Chapters 4 and 49 (relating to academic standards and assessment and certification of professional personnel), including:

(i) The number of projected full time equivalent employees in each of the following categories:

(A) Pupil personnel.

(B) Instructional personnel.

(C) Administration.

(D) Business office.

(E) Transportation.

(F) Public health.

(G) Operations.

(H) Management.

(ii) Caseloads of staff for students receiving special education services at appropriate levels to ensure a free appropriate public education (FAPE) as required by Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities).

(iii) The charter school's or regional charter school's plan and process for providing ongoing professional development for all instructional staff members.

- (14) A description and copies of agreements or plans with the charter school's or regional charter school's authorizer to allow the school's students to participate in extracurricular activities within the authorizing school district.
- (15) The criminal history record, pursuant to section 111 of the School Code (24 P.S. § 1-111), for all individuals who will have direct contact with students.
- (16) An official clearance statement regarding child injury or abuse from the Department of Human Services, as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools), for all individuals who will have direct contact with students.
- (17) A description of how the charter school or regional charter school will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school or regional charter school as required by section 1719-A of the Charter School Law (24 P.S. § 17-1719-A), including a description of the type and level of insurance coverage the school will obtain (for example, general commercial liability, property, automobile, directors and operators, technology, workers compensation, liability under the Individuals with Disabilities Education Act and its implementing regulations, retirement liability and employee health insurance).

§ 713.3. Contents of Cyber Charter School Application

An applicant seeking to operate a cyber charter school shall submit an application on the application form created by the Department, which includes the items identified in § 713.2(c) and all provisions of section 17-1747-A of the Charter School Law (24 P.S. § 17-1747-A).

ENROLLMENT

§ 713.4. Random Selection Policies for a Charter School or Regional Charter School.

- (a) Within three (3) months of the effective date of this Chapter or upon the granting of a charter, a charter school or regional charter school must enact a policy, approved by its board of trustees, to ensure random selection of students for enrollment should more students apply to the charter school or regional charter school than the number of attendance slots available.
- (b) In the case of a charter school or regional charter school applicant, the proposed policy ensuring random selection of students for enrollment must be included in the contents of the application pursuant to section 1719-A(6) of the Charter School Law (24 P.S. § 17-1719-A(6)).
- (c) The policy identified in subsection (a) must:
 - (1) Be posted on the charter school's or regional charter school's publicly accessible website.
 - (2) Be included in any renewal application of a charter school or regional charter school.
 - (3) Describe the method to be utilized by the charter school or regional charter school to effectuate selection of students for enrollment on a random basis.
 - (4) Describe how the charter school or regional charter school will ensure public notice of the selection process. Such notice must be posted on the charter school's or regional charter school's publicly accessible website in a language that students and parents can understand or, if not practicable, can be orally translated, and, upon request, provided in an alternative format that is accessible to an individual with a disability.

- (5) Detail any optional enrollment preferences for a child of a parent or guardian who has actively participated in the development of the charter school or regional charter school and to siblings of students presently enrolled in the charter school or regional charter school. Details must describe:
 - (i) The order in which preferences are implemented.
 - (ii) Any weighting associated with the preferences.
 - (6) Outline any admission limitations including for a particular grade level, a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science, or the arts.
- (d) A charter school or regional charter school shall include in the annual report submitted under section 1728-A of the Charter School Law (24 P.S. § 17-1728-A) and shall, at least annually, publish on its publicly accessible website the following information:
- (1) Number of total applicants to the charter school or regional charter school for the most recent school year.
 - (2) Number of qualified applicants as determined by the charter school or regional charter school for the most recent school year.
 - (3) Number of students offered enrollment by the charter school or regional charter school for the most recent school year.
 - (4) Number of students enrolled by the charter school or regional charter school for the most recent school year.

§ 713.5. Random Selection Policies for a Cyber Charter School.

- (a) A cyber charter school may not restrict enrollment based on availability of attendance slots unless such terms are agreed to by the Department and the cyber charter school as part of a

written charter pursuant to sections 1723-A(d) and 1745-A of the Charter School Law (24 P.S. § 17-1723-A(d); 24 P.S. § 17-1745-A).

(b) For cyber charter schools with enrollment terms agreed to by the Department and the cyber charter school as part of a written charter pursuant to section 1745-A of the Charter School Law (24 P.S. § 17-1745-A), a cyber charter school must, within three (3) months of the effective date of this Chapter or upon the granting of a charter, enact a policy, approved by its boards of trustees and the Department, to ensure random selection of students for enrollment should more students apply to the cyber charter school than the number of attendance slots available.

(c) The policy identified in subsection (b) must:

- (1) Be posted on the cyber charter school's publicly accessible website.
- (2) Be included in any renewal application of a cyber charter school.
- (3) Describe the method to be utilized by the cyber charter school to effectuate selection of students for enrollment on a random basis.
- (4) Describe how the cyber charter school will ensure public notice of the selection process. Such notice must be posted on the cyber charter school's publicly accessible website in a language that students and parents can understand or, if not practicable, can be orally translated, and, upon request, provided in an alternative format that is accessible to an individual with a disability.
- (5) Detail any optional enrollment preferences pursuant to section 1723-A of the Charter School Law (24 P.S. § 17-1723-A) for a child of a parent or guardian who has actively participated in the development of the cyber charter school and to siblings

of students presently enrolled in the cyber charter school. Details must describe all of the following:

- (i) The order in which preferences are implemented.
 - (ii) Any weighting associated with the preferences.
- (6) Outline any admission limitations pursuant to section 1723-A of the Charter School Law (24 P.S. § 17-1723-A) including for a particular grade level, a targeted population group composed of at-risk students, or areas of concentration of the school such as mathematics, science, or the arts.
- (d) A cyber charter school shall include in the annual report submitted under section 17-1743-A(f) of the Charter School Law (24 P.S. § 17-1743-A(f)) and shall, at least annually, publish on its publicly accessible website the following data elements:
 - (1) Number of total applicants to the cyber charter school for the most recent school year.
 - (2) Number of qualified applicants as determined by the cyber charter school for the most recent school year.
 - (3) Number of students offered enrollment by the cyber charter school for the most recent school year.
 - (4) Number of students enrolled by the cyber charter school for the most recent school year.

BOARDS OF TRUSTEES

§ 713.6. Requirements for Boards of Trustees

- (a) Each member of a board of trustees of a charter school entity is a public official subject to the Public Official and Employee Ethics Act (65 Pa.C.S. §§ 1101-1113).
- (b) In accordance with 65 Pa.C.S. § 1104 (relating to statement of financial interests required to be filed), each member of a board of trustees of a charter school entity shall file a statement of financial interest for the preceding calendar year with the board of trustees of the charter school entity, the State Ethics Commission, and each authorizer of the charter school entity. The member shall file the statement of financial interest no later than May 1 of each year the member holds the position and no later than May 1 of the year after a member leaves the position. If the member was appointed or selected after May 1, the member shall file a statement of financial interest in accordance with this section within 30 days of appointment or selection.
- (c) No member of a board of trustees of a charter school entity may participate in the selection, award, or administration of any contract in violation of 65 Pa.C.S. § 1103 (relating to restricted activities) or if the member has a conflict of interest as that term is defined in 65 Pa.C.S. § 1102 (relating to definitions).
- (d) A member of a board of trustees of a charter school entity who in the discharge of the member's official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and follow the procedures required under 65 Pa.C.S. § 1103(j) (relating to restricted activities).
- (e) A member of a board of trustees of a charter school entity or family member of a member of a board of trustees of a charter school entity shall not, directly or through any other individual, entity, partnership or corporation in which the member holds stock or has a financial interest or other organization, provide a loan, forbearance or forgiveness of a loan

or other debt, service or product or lease property to the charter school entity if such action is a conflict of interest as defined in 65 Pa.C.S. § 1102 (relating to definitions).

- (f) A member of a board of trustees of a charter school entity who violates any provision of the Public Official and Employee Ethics Act (65 Pa.C.S. § 1101-1113) shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission.

FISCAL AND AUDITING STANDARDS

§ 713.7. Fiscal Management and Audit Requirements

- (a) Pursuant to section 1729-A of the Charter School Law (24 P.S. § 17-1729-A), a charter school entity shall adhere to generally accepted standards of fiscal management and audit requirements.
- (b) A charter school entity may satisfy the requirement in subsection (a) by meeting the following requirements:
 - (1) The financial statements of a charter school entity shall be prepared in accordance with generally accepted accounting principles (GAAP) as applied to governmental units and as established by the Governmental Accounting Standards Board (GASB).
 - (2) A charter school entity shall obtain an independent annual financial audit that follows Generally Accepted Government Auditing Standards (GAGAS), as issued by the Comptroller General of the United States, and Generally Accepted Auditing Standards (GAAS), as issued by the American Institute of Certified Public Accountants (AICPA).
- (c) The following items must be addressed in all audits completed under this section:

- (1) A review of the charter school entity's enrollment records to demonstrate support for the invoices submitted to students' school districts of residence.
- (2) A review of the fees charged by any educational management service provider with which the charter school entity has a contract, if applicable.
- (3) A review of whether the charter school entity has the required number of certified staff.
- (4) A review of the percentage of payroll the charter school entity contributed to employee retirement programs.
- (5) A review of the charter school entity's financial expenditures to ensure compliance with the charter school entity's own financial policies.

REDIRECTION PROCESS

§ 713.8. Redirection Process

- (a) Pursuant to section 1725-A(a)(5) of the Charter School Law (24 P.S. § 17-1725-A(a)(5)), a charter school entity shall submit its payment request to the school district no later than ten (10) days before the fifth of each month to permit a school district time to make payment.
- (b) A school district fails to make a payment under section 1725-A(a)(5) of the Charter School Law (24 P.S. § 17-1725-A(a)(5)) when the school district does not make payment to the charter school entity by the fifth of the month.
- (c) If a school district fails to make a payment under subsection (b), a charter school entity may submit a request to the Secretary seeking to have the estimated amount withheld from State payments that will be made to the school district.

(d) A charter school entity that submits a request under subsection (c) must submit the request on a form created by the Department. Such form must include the following information:

(1) For each student for which the charter school entity is seeking payment:

- (i) PAsecureID.
- (ii) Home address.
- (iii) School district of residence.
- (iv) Date of birth.
- (v) Grade in which the student is enrolled at the charter school entity.
- (vi) Date enrollment notification form was sent to school district of residence.
- (vii) First day educated by the charter school.
- (viii) Last day educated by the charter school, if applicable.
- (ix) Special education status, if applicable.
- (x) Date of current Individualized Education Plan (IEP), if applicable.
- (xi) Date of prior IEP, if applicable.

(2) The source of the tuition rate used by the charter school entity in its withholding request to the Department.

- (e) For the months from July through May, requests under this section must be submitted to the Department between the 15th and 25th of each month.
- (f) Requests to the Secretary under this section may not include tuition for the month after the month in which the request was submitted.
- (g) Requests under this section must be signed by the chief executive officer or other authorized individual of the charter school entity certifying that the estimated amounts requested are true and correct, and that a request was first made to the school district of

residence, subject to penalties of unsworn falsifications to authorities under 18 Pa.C.S. § 4904 (relating to unsworn falsifications to authorities).

SCHOOL STAFF

§ 713.9. Health Care Benefits

(a) Pursuant to section 1724-A of the Charter School Law (24 P.S. § 17-1724-A), a charter school shall meet the statutory requirement to provide its employees with the same health care benefits as they would be provided if they were an employee of the local school district. To implement this requirement, and demonstrate that health care benefits provided by the charter school are meaningfully similar to those offered by the local school district, the charter school shall do one of the following:

(1) Provide health care coverage that:

(i) Provides benefits in each of the categories of benefits as described in 42 U.S.C. § 18022(b) with substantially equivalent cost-sharing structure and plan type (such as preferred provider organization, exclusive provider organization, or health maintenance organization) as the most-selected health care plan available to the employees of the charter school's authorizer.

(ii) Is funded by the charter school in an amount not less than the contribution provided by the charter school's authorizer for the most-selected health care plan available to the employees of the charter school's authorizer.

(2) Contribute to a tax-advantaged account which the employee may use to pay for the purchase of health care coverage, as permitted by Federal law, in an amount not less

than the contribution provided by the charter school's authorizer for the (or, if more than one, the most-selected) health care plan available to the employees of the charter school's authorizer.

(b) Pursuant to section 1724-A of the Charter School Law (24 P.S. § 17-1724-A), a regional charter school or a cyber charter school shall provide its employees with the same health care benefits as they would be provided if they were employees of the local school district. To implement this requirement, and demonstrate that health care benefits provided by the regional charter school or cyber charter school are meaningfully similar to those offered by the local school district, the regional charter school or cyber charter school shall do one of the following:

(1) Provide health care coverage that:

(i) Provides benefits in each of the categories of benefits as described in 42 U.S.C. § 18022(b), with substantially equivalent cost-sharing structure and plan type (such as preferred provider organization, exclusive provider organization, or health maintenance organization) as the most-selected health care plan available to employees of the school district within which the regional charter school's or cyber charter school's administrative office is located.

(ii) Is funded by the regional charter school or cyber charter school in an amount not less than the contribution provided by the school district within which the regional charter school's or cyber charter school's administrative office is located for the most-selected health care plan available to that school district's employees.

- (2) Contribute to a tax-advantaged account which the employee may use to pay for the purchase of health care coverage, as permitted by Federal law, in an amount not less than the contribution provided by the school district in which the regional charter school's or cyber charter school's administrative office is located for the most-selected health care plan available to that school district's employees.
- (c) Charter schools, regional charter schools, or cyber charter schools shall present health care benefit plan enrollment options to employees, including a comparison of what they would have been offered if they were employees of the local school district, at each enrollment period.
- (d) The comparison required by subsection (c) shall include the following statement:
- “UNDER PENNSYLVANIA LAW, CHARTER SCHOOLS, REGIONAL CHARTER SCHOOLS, AND CYBER CHARTER SCHOOLS ARE REQUIRED TO PROVIDE THE SAME HEALTH CARE BENEFITS TO THEIR EMPLOYEES AS THEY WOULD BE PROVIDED IF THEY WERE EMPLOYEES OF THE LOCAL DISTRICT. IF YOU BELIEVE THE PLAN OPTIONS MADE AVAILABLE TO YOU ARE NOT COMPARABLE TO THOSE OFFERED BY YOUR LOCAL DISTRICT, YOU MAY FILE A COMPLAINT WITH THE AUTHORIZER OR AUTHORIZERS OF THE CHARTER SCHOOL, REGIONAL CHARTER SCHOOL, OR CYBER CHARTER SCHOOL.”
- (e) The authorizer of the charter school, regional charter school, or cyber charter school may review the health care benefits policies of the charter school, regional charter school, or cyber charter school.

LRB.

Kathy Cooper

From: Bulletin <bulletin@palrb.us>
Sent: Wednesday, September 8, 2021 11:18 AM
To: Levis, Eric
Cc: Kane, Julie; Stephen, Jason; Seely, Randall; Rejrat, Wallace
Subject: [External] RE: Proposed regulation #6-349 - redelivery

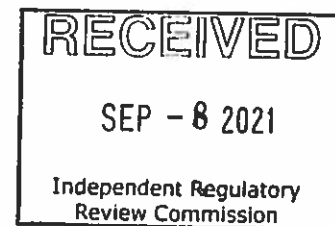
ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Good morning Rick:

Thank you for sending Proposed Rulemaking #6-349.

Thank you and have a nice day.

Coleen P. Engvall | Legal Assistant
cengvall@palrb.us | 717.783.1531
Legislative Reference Bureau
Code and Bulletin Office



From: Levis, Eric <ELEVIS@pa.gov>
Sent: Wednesday, September 8, 2021 11:12 AM
To: Bulletin <bulletin@palrb.us>
Cc: Kane, Julie <jukane@pa.gov>; Stephen, Jason <jastephen@pa.gov>; Seely, Randall <rseely@pa.gov>; Rejrat, Wallace <wrejrat@pa.gov>
Subject: Proposed regulation #6-349 - redelivery
Importance: High

To whom it may concern:

Attached for publication on September 18, 2021, please see the rulemaking documents for the Department of Education's proposed rulemaking number #6-349, relating to Charter Schools and Cyber Charter Schools.

Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.

Sincerely,

Rick

Eric Levis | Deputy Director
Pennsylvania Department of Education | Policy Office
333 Market Street | Harrisburg, PA 17126
717.783.6989 | elevis@pa.gov

Sen-maj

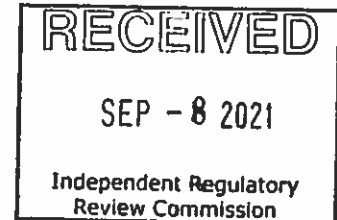


pennsylvania
DEPARTMENT OF EDUCATION

September 8, 2021

VIA E-MAIL

Senator Scott Martin
Majority Chair, Senate Education Committee
Pennsylvania State Senate
Senate Box 203013
Harrisburg, PA 17120-3013



Dear Senator Martin,

Attached, please find proposed rulemaking number 6-349. The Department of Education proposes to add Chapter 713 (relating to charter schools and cyber charter schools) to Title 22 (relating to education) of the Pennsylvania Code.

Sincerely,

/s/ Eric Levis

Eric Levis
Deputy Policy Director

Kathy Cooper

From: Urban, Cynthia <curban@pasen.gov>
Sent: Wednesday, September 8, 2021 11:26 AM
To: Levis, Eric
Cc: Kane, Julie; Stephen, Jason; Seely, Randall; Rejrat, Wallace
Subject: RE: Proposed regulation #6-349 - redelivery

Received.

Thank you,

Cindy Urban
Executive Director
Senate Education Committee | Chairman, Senator Scott Martin
Room 351 Main Capitol
Phone: (717) 787-6535
www.SenatorScottMartinPA.com
Facebook: @SenatorScottMartinPA
Twitter: @SenatorMartinPA

From: Levis, Eric <ELEVIS@pa.gov>
Sent: Wednesday, September 8, 2021 11:06 AM
To: Urban, Cynthia <curban@pasen.gov>
Cc: Kane, Julie <jukane@pa.gov>; Stephen, Jason <jastephen@pa.gov>; Seely, Randall <rseely@pa.gov>; Rejrat, Wallace <wrejrat@pa.gov>
Subject: Proposed regulation #6-349 - redelivery
Importance: High

Ⓢ CAUTION : External Email Ⓢ

Dear Senator Martin:

Please see the **redelivery** of the attached rulemaking documents for the Department of Education's proposed rulemaking number #6-349, relating to Charter Schools and Cyber Charter Schools.

Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.

Sincerely,

Rick

Eric Levis | Deputy Director
Pennsylvania Department of Education | Policy Office
333 Market Street | Harrisburg, PA 17126
717.783.6989 | elevis@pa.gov
www.education.pa.gov

Sen. Min

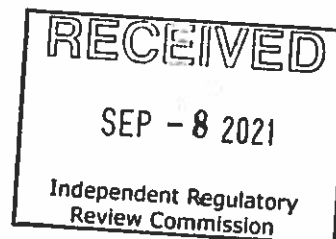


pennsylvania
DEPARTMENT OF EDUCATION

September 8, 2021

VIA E-MAIL

Senator Lindsey M. Williams
Minority Chair, Senate Education Committee
Pennsylvania State Senate
Senate Box 203038
Harrisburg, PA 17120-3038



Dear Senator Williams,

Attached, please find proposed rulemaking number 6-349. The Department of Education proposes to add Chapter 713 (relating to charter schools and cyber charter schools) to Title 22 (relating to education) of the Pennsylvania Code.

Sincerely,

/s/ Eric Levis

Eric Levis
Deputy Policy Director

Kathy Cooper

From: Kleiman, Cheryl <Cheryl.Kleiman@pasenate.com>
Sent: Wednesday, September 8, 2021 11:28 AM
To: Levis, Eric; Lindsey.Williams; Winters, Megan
Cc: Kane, Julie; Stephen, Jason; Seely, Randall; Rejrat, Wallace
Subject: RE: Proposed regulation #6-349 - redelivery
Attachments: Proposed Rulemaking 006-349 - Senate Minority.pdf

Good morning,

On behalf of Senator Williams, I'm happy to confirm redelivery of the attached rulemaking documents.

Thanks,
Cheryl

Cheryl Kleiman (she/her)
Legislative Director
Executive Director | Senate Education Committee
Senator Lindsey M. Williams
412-392-7239
cheryl.kleiman@pasenate.com

From: Levis, Eric <ELEVIS@pa.gov>
Sent: Wednesday, September 8, 2021 11:08 AM
To: Kleiman, Cheryl <cheryl.kleiman@pasenate.com>; Williams, Senator Lindsey <lindsey.williams@pasenate.com>; Winters, Megan <Megan.Winters@pasenate.com>
Cc: Kane, Julie <jukane@pa.gov>; Stephen, Jason <jastephen@pa.gov>; Seely, Randall <rseely@pa.gov>; Rejrat, Wallace <wrejrat@pa.gov>
Subject: Proposed regulation #6-349 - redelivery
Importance: High

■ EXTERNAL EMAIL ■

Dear Senator Williams:

Please see the **redelivery** of the attached rulemaking documents for the Department of Education's proposed rulemaking number #6-349, relating to Charter Schools and Cyber Charter Schools.

Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.

Sincerely,

Rick

Eric Levis | Deputy Director

Pennsylvania Department of Education | Policy Office
333 Market Street | Harrisburg, PA 17126
717.783.6989 | elevis@pa.gov
www.education.pa.gov

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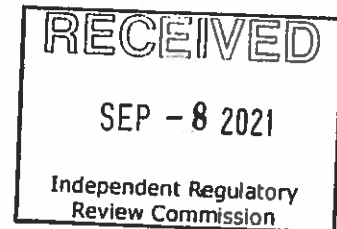


pennsylvania
DEPARTMENT OF EDUCATION

September 8, 2021

VIA E-MAIL

The Honorable Curtis G. Sonney
Majority Chair, House Education Committee
Pennsylvania House of Representatives
214 Ryan Office Building
P.O. Box 202004
Harrisburg, PA 17120-2004



Dear Representative Sonney,

Attached, please find proposed rulemaking number 6-349. The Department of Education proposes to add Chapter 713 (relating to charter schools and cyber charter schools) to Title 22 (relating to education) of the Pennsylvania Code.

Sincerely,

/s/ Eric Levis

Eric Levis
Deputy Policy Director

Kathy Cooper

From: Christine Crone <Ccrone@pahousegop.com>
Sent: Wednesday, September 8, 2021 1:06 PM
To: Levis, Eric; Sonney Curt; cseitz
Cc: Kane, Julie; Stephen, Jason; Seely, Randall; Rejrat, Wallace
Subject: RE: Proposed regulation #6-349 - redelivery

Thanks Eric,

This has been received by Chairman Sonney's office.

Christine M. Crone
Administrative Assistant II
Representative Curt Sonney
Education Committee Chairman
214 Ryan Office Building
PO Box 202004
Harrisburg PA 17120-2004
(717) 783-9087 ph.
ccrone@pahousegop.com

From: Levis, Eric <ELEVIS@pa.gov>
Sent: Wednesday, September 8, 2021 11:09 AM
To: Curt Sonney <Csonney@pahousegop.com>; Christine Seitz <Cseitz@pahousegop.com>; Christine Crone <Ccrone@pahousegop.com>
Cc: Kane, Julie <jukane@pa.gov>; Stephen, Jason <jastephen@pa.gov>; Seely, Randall <rseely@pa.gov>; Rejrat, Wallace <wrejrat@pa.gov>
Subject: Proposed regulation #6-349 - redelivery

Dear Representative Sonney:

Please see the **redelivery** of the attached rulemaking documents for the Department of Education's proposed rulemaking number #6-349, relating to Charter Schools and Cyber Charter Schools.

Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.

Sincerely,

Rick

Eric Levis | Deputy Director
Pennsylvania Department of Education | Policy Office
333 Market Street | Harrisburg, PA 17126
717.783.6989 | elevis@pa.gov
www.education.pa.gov

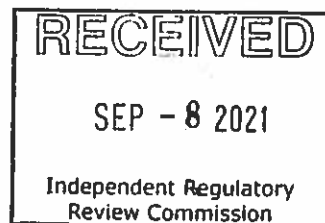
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September 8, 2021

VIA E-MAIL

The Honorable Mark Longietti
Minority Chair, House Education Committee
Pennsylvania House of Representatives
202 Irvis Office Building
P.O. Box 202007
Harrisburg, PA 17120-2007



Dear Representative Longietti,

Attached, please find proposed rulemaking number 6-349. The Department of Education proposes to add Chapter 713 (relating to charter schools and cyber charter schools) to Title 22 (relating to education) of the Pennsylvania Code.

Sincerely,

/s/ Eric Levis

Eric Levis
Deputy Policy Director

Kathy Cooper

From: Dixon, Erin <EDixon@pahouse.net>
Sent: Wednesday, September 8, 2021 11:49 AM
To: Levis, Eric; mlongiet; Marlena Miller; Brownawell Robert
Cc: Kane, Julie; Stephen, Jason; Seely, Randall; Rejrat, Wallace
Subject: Re: Proposed regulation #6-349 - redelivery

Received. Thank you!

Erin

From: Levis, Eric <ELEVIS@pa.gov>
Sent: Wednesday, September 8, 2021 11:09 AM
To: Longiatti, Mark <MLongiet@pahouse.net>; Dixon, Erin <EDixon@pahouse.net>; Miller, Marlena M. <MMiller@pahouse.net>; Brownawell, Robert <RBrownaw@pahouse.net>
Cc: Kane, Julie <jukane@pa.gov>; Stephen, Jason <jastephen@pa.gov>; Seely, Randall <rseely@pa.gov>; Rejrat, Wallace <wrejrat@pa.gov>
Subject: Proposed regulation #6-349 - redelivery

Dear Representative Longiatti:

Please see the **redelivery** of the attached rulemaking documents for the Department of Education's proposed rulemaking number #6-349, relating to Charter Schools and Cyber Charter Schools.

Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.

Sincerely,

Rick

Eric Levis | Deputy Director
Pennsylvania Department of Education | Policy Office
333 Market Street | Harrisburg, PA 17126
717.783.6989 | elevis@pa.gov
www.education.pa.gov