



Pennsylvania Department of the

AUDITOR GENERAL

Pennsylvania Charter School Accountability and Transparency: Time for a Tune-Up

Special Report on Charter School Accountability and Transparency



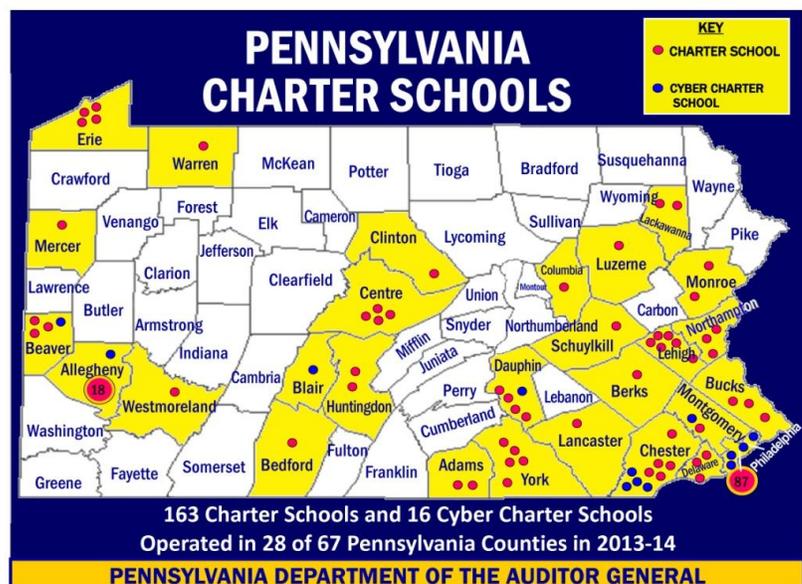
Background:

Auditor General Eugene DePasquale recently held a series of five public informational meetings to explore ways to improve the accountability, effectiveness, and transparency of charter schools and cyber charter schools. To help supplement information learned through hundreds of school audits, the Auditor General wanted to hear from a wide cross-

section of experts and advocates, including representatives of school districts, charter schools, educational associations, business and industry groups and citizen organizations. This report outlines the Department of the Auditor General's recommendations based on these recent informational meetings, as well as findings from the hundreds of school district and charter school audits conducted every year. Note that statements cited in this report from our meeting participants are solely their views and not the views of the Department of the Auditor General.

Highlights

- Create a funded and staffed independent statewide charter school oversight board
- Empower authorizers to intervene as problems develop and reward high performing charter schools
- Require charter schools to present annual reports at public meetings
- Allow the Department of Education's Special Education Division to serve as the intermediary between charter schools and school districts when a student classification is in dispute
- Eliminate cyber school payments from school districts and replace funding with direct payment from the state
- Modify rules on admissions and enrollment, transparency, professional staff requirements, and management and operations



Introduction:

The Pennsylvania “Charter School Law”¹ (CSL) authorized the establishment of independent public charter schools to operate as public nonprofit, nonsectarian kindergarten through 12th grade educational entities in 1997. Supporters of the law envisioned creating charter schools that would “increase learning opportunities for all pupils.”² The CSL originally intended to, among other things:

- improve pupil learning,
- encourage the use of different and innovative teaching methods, and
- hold traditional and charter public schools accountable for meeting measurable academic standards.

Based on the preamble of the law, members of the Pennsylvania General Assembly were hopeful that the CSL would provide teachers, parents, pupils, and community members with the opportunity to establish schools that were independent of the existing school district structure and offer parents and students expanded educational choices.³

Seventeen years later, Pennsylvania has more than 84,000 students enrolled in more than 160 brick-and-mortar charter schools and 35,000 students enrolled in 16 cyber charter schools.⁴ The current circumstances are far different from the 1997 CSL supporters’ vision. Today, many school districts and charter schools are combatants fighting for students and for public dollars, often times having acrimonious or non-existent relationships with one another. As school districts continue to be overwhelmed by current and projected budget shortfalls, the increasing tuition dollars being sent to charter schools are viewed by the school districts as a significant burden. At the same time, many charter schools feel they are unfairly cast as the villain in a larger school funding crisis exacerbated by the elimination of the charter school reimbursement paid to school districts in the 2011-12 state budget.⁵

What are Charter Schools?

Brick-and-mortar charter schools are self-managed publicly funded schools that are authorized by local school districts; cyber charter schools are authorized by the Pennsylvania Department of Education. Both can be created by parents, teachers, community leaders, and colleges or universities and are controlled by an appointed board of trustees. Charter schools operate free from certain educational mandates, and are subject to some mandates concerning nondiscrimination, health and safety, and accountability. Charter schools are expected to offer alternatives in education using strategies that may save money and improve student performance.

¹ 24 P.S. § 17-1701-A *et seq.* (Act 22 of 1997, as amended).

² 24 P.S. § 17-1702-A.

³ *Id.*

⁴ It is important to note that while charter schools providing instruction through the Internet or other electronic means and approved by school districts existed prior to 2002, cyber charter schools were not explicitly defined in the law until Act 88 of 2002, as amended, which defined a cyber charter school as “an independent public school established and operated under a charter from the Department of Education.” See 24 P.S. § 17-1741-A *et seq.* and 24 P.S. § 17-1703-A.

⁵ Prior to the 2011-12 school year, the commonwealth provided indirect financial support to charter school education by reimbursing school districts a portion of their charter school tuition payments according to established rates (up to 30%, or 41.96% in some instances).

At a time when enrollment at charter and cyber charter schools is increasing, audits of school districts and charter schools conducted by the Department of Auditor General find common themes: school districts and charter schools continue to struggle with often confusing statutory and regulatory provisions relating to charter/cyber charter schools as well as unpredictable, inconsistent, or nonexistent guidelines from the commonwealth.

Based on comments from public meeting participants and school audit reports, it appears that the root of many school problems is related to the state's funding for schools. In the state's 500 public school districts the per-pupil funding for regular education varies by as much as \$21,000. Similarly, when comparing charter schools, per-pupil tuition varies by as much as \$10,000 for regular education and \$42,000 for special education. Clearly something is wrong in how schools in Pennsylvania are funded because these disparities certainly cannot all be attributed to cost-of-living adjustments across the state. For school districts, the increasing costs of tuition, as more students opt to attend charter schools, combined with the loss in 2011 of the charter school reimbursement paid by the state are part of the funding problem. However the charter school funding challenges are also a symptom of a much bigger crisis in school funding that threatens the quality of education across the commonwealth.

Further, the funding formula for charter schools' (both brick-and-mortar and cyber) basic education tuition rates and special education tuition rates charged to school districts are seriously flawed. The charter school funding formula for regular education and special education students provided for in the CSL have resulted in substantial tuition inequities that undermine both school districts and charter schools. The repercussions of the funding rates were underscored in the Department of the Auditor General's 2012 special report, "Charter and Cyber Charter Education Funding Reform Should Save Taxpayers \$365 Million Annually."⁶

Another critical problem the Department of the Auditor General gleaned from the public meetings is that many participants agree with the observation that school safety is one of the major reasons parents send their child to a charter school. Many parents believe that their child will be safer at a charter school. The root causes of school safety problems are incredibly complicated, sensitive, and beyond the scope of what revised Safe Schools provisions of the Public School Code⁷ could ever fix. However, it must be addressed in a comprehensive way.

⁶ <http://www.auditor.gen.state.pa.us/Department/Press/CyberCharterSpecialReport201206.pdf>

⁷ 24 P.S. § 13-1301-A *et seq.*

Brick-and-Mortar Charter Schools

A brick-and-mortar charter school is physically located within the boundaries of an authorizing local school district. The local school district's board of directors grants the charter approving the establishment of the charter school.

The charter is a five-year agreement, or contract, between the school district and an incorporated nonprofit entity, known as a charter school. School districts pay per-student tuition to charter schools for residents attending the charter school. A charter school applicant may apply to a single school district or, under the regional charter school provisions of the law, to multiple school districts.

Like traditional public schools, a charter school is required to provide a minimum of 180 days of instruction, or 900 hours, per school year of instruction at the elementary level and 990 hours per school year of instruction at the secondary level.

Cyber Charter Schools

A cyber charter school provides instruction through the Internet or other electronic/digital means. The Pennsylvania Department of Education is responsible for the oversight of cyber charter schools, including approval of the initial charter, and decisions on whether to renew or revoke the charter every five years. School districts pay per-student tuition to cyber charter schools for their residents attending the cyber school.

A cyber charter school is also required to provide a minimum of 180 days of instruction, or 900 hours, per school year of at the elementary level and 990 per school year of instruction at the secondary level.

At the very least, the first priority in making our schools safe is ensuring that there is a stronger lead state agency that is the entity in charge of school safety with the direct authority to require all school entities to comply with the Safe Schools provisions. Having a lead state agency would allow a direct chain of command, which important when dealing with emergency situations, and would allow for more meaningful statutory provisions and rules and regulations to be established and enforced. The idea of assigning a single, lead state agency in charge of school safety has been considered for some time by the General Assembly and needs immediate action. As long as parents and students question school safety, the more likely they will be to seek alternatives to traditional public schools.⁸

Aside from overhauling the state's education funding system and improving school safety, enhancements can be made to improve the oversight, transparency and accountability of the charter school system in Pennsylvania. These enhancements will help address many education problems and better ensure that taxpayer dollars are being spent appropriately to improve the education of all students.

As noted earlier in the background section, to help supplement information gleaned from hundreds of school audits, Auditor General Eugene DePasquale held five public meetings across the state (see Appendix A) to help explore ways to improve the accountability, the effectiveness, and the transparency of charter schools. The objective of these meetings was to identify potential improvements to charter school oversight and operations that ultimately help to:

- ensure that children enrolled in charter schools receive a high-quality education; and
- ensure that taxpayer funding is used appropriately.

Participants in the public meetings made it clear that the 1997 CSL is long overdue for major changes. Proponents on both sides of the charter school issue agreed that the



⁸ In 2007, the Department of the Auditor General announced it would begin implementing a safety and security checklist as part of its regular audits of all schools, including charters. This decision was in part based upon a survey the department conducted of 491 school districts, intermediate units, vocational-technical schools, charter schools, and cyber charter schools. See <http://www.auditorgen.state.pa.us/departments/press/wagnermksftysecurchcklstparttpublicschlaudits.html>

lack of direction and oversight at the state level is an enormous problem. Issues raised include:

- Existing statutory provisions are not being enforced and it is unclear who is responsible for enforcing them;
- Options for intervention by school districts before charter schools' renewal are unclear;
- School districts lack the authority to obtain and access information about charters;
- Questions raised about statutory provisions are often unanswered; and
- Appeals process is lengthy and expensive because it is fraught with confusion and unclear guidelines.

Some of our recommendations (please see the "What's Needed" sections of this report) are being made for the first time; others are similar or identical to previous proposals that have not been enacted. The issues are not new, and have been studied and debated for more than a decade, without results. The legislature must take action now to fix these long-standing problems.

The recommendations in this report are based on testimony provided by participants at five public meetings, visits to schools across the state, and the hundreds of school audits conducted by the Department of the Auditor General each year. The goal of this report is to stimulate a dialogue with members of the General Assembly, the Pennsylvania Department of Education, and education leaders. The Auditor General is hopeful that this report will produce meaningful reforms that will help students at all of Pennsylvania's public schools and ensure that taxpayer dollars for education are being spent appropriately.

Charter schools are here to stay. Many outstanding charter schools in the state are doing amazing things for children and offering new ways to educate. Clearly, thousands of parents welcome having a choice when it comes to public schools. The department offers this report in hopes that the proposed changes will allow the successful charter schools to flourish, while shining a light on those charters that have problems that must be addressed.

State Oversight

THE LAW: With the exception of the appeals process, the CSL is mostly silent on the state’s roles and responsibilities regarding brick-and-mortar charter school oversight. The CSL does specify that the “local board of school directors shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and this act and that requirements for testing, civil rights and student health and safety are being met.”⁹ However, the CSL provides no penalties for charter schools that do not comply.

WHERE WE ARE: Limited charter school oversight occurs at the state level.

At present, the Charter School Office within the Department of Education and the State Charter School Appeal Board appointed by the Secretary of the Department of Education are responsible for charter school oversight. Many public meeting participants expressed dissatisfaction with the Charter School Office’s ability to collect charter school annual reports or to consistently respond to the needs of charter schools or school districts.

Anthony Pirrello, CEO of Montessori Regional Charter School (MRCS), in Erie explained:

“MRCS has had to go to court or through administrative processes nine times. In all nine actions MRCS was found to be right all nine times! Currently MRCS is involved in another senseless dispute regarding our per pupil allocation. In this matter, we have caught one of our chartering school districts participating in outright fraud in order to artificially depress the value of the PDE 363¹⁰. We have appealed to the PDE which as of today has gotten us nowhere. Our only options at this point are through the federal courts, which will consume a large amount of taxpayer time and money. Where the law is designed to be a counterbalance against corruption, our experience shows it can also be used as a tool for waste.”

Voices:

“A student – a child – is not the property of a school district. When a student and her family decide, for whatever reason, that a public charter school suits their needs better than a public school district, the money follows the student. School districts cannot feel entitled to a student, or to the dollars allocated for the express purpose of educating that student. School districts and charter schools are deserving of the same degree of legitimacy, including with regard to funding.”

**-Stephen Catanzarite, VP of
Business Development at National
Network of Digital Schools**

⁹ 24 P.S. § 17-1728-A-(a)

¹⁰ Pennsylvania Department of Education’s Form 363 “calculates the amount the school district is to pay charter schools for resident students enrolled.” See http://www.portal.state.pa.us/portal/server.pt/community/financial_documents/7676

WHAT'S NEEDED: Create a funded and staffed independent statewide charter school oversight board.

The proposed independent charter school oversight board would employ full-time staff and replace the current Charter School Office and the Charter Appeal Board. The charter school oversight board would consist of individuals appointed by the governor and both caucuses of the state house and senate to ensure adequate consideration of a broad cross-section of Pennsylvanians. Under this proposal, school districts would continue as authorizers of brick-and-mortar charter schools, and the Department of Education would continue as the authorizer of cyber charter schools.

The board would be funded by a dedicated appropriation in the state's General Fund, and be similar in style and oversight to the Pennsylvania Department of the State's Bureau of Occupational and Professional Affairs. The costs incurred by the creation of this board are a worthwhile and necessary investment that will be more than offset by the savings from improved oversight that will lead to fewer court cases. With more than \$1 billion dollars being spent on charter schools every year, improved oversight is imperative. Mandating and codifying these duties to the statewide oversight board with a dedicated funding stream will improve the commonwealth's ability to provide necessary services to authorizers and charters.

The duties for the proposed oversight board should include:

- **Acting as an effective and prompt resource to address charter-related issues raised by school districts and charter schools.** The board's staff will be experts and will provide clarification on statutory provisions, regulations, and guidelines and other questions that arise.
- **Enforcing statutory provisions, regulations, and guidelines.** This is the central role of the board. The provisions of the CSL are helpful but lack any power or authority if there is no party to enforce them. Multiple enforcement options should be explored, including withholding payments to charter schools until concerns are addressed, and establishing an expedited charter revocation process for extreme cases. School districts may turn to the board to enforce CSL provisions that allow school districts to obtain documents and information from charter schools. The board will also develop a process for enforcing statutory and regulatory provisions to improve charter school compliance regarding student enrollment (especially the lottery process some charters use to admit students), Right-to-Know Law requests, lease reimbursement requests, and provisions related to the state's Public Official and Employee Ethics Act which require annual financial disclosures. Another role for the board will be to verify the self-reported information contained in annual reports charter schools are required to submit each year (see Charter School Annual Report section).
- **Training school districts to be effective authorizers.** This is a critical piece in ensuring that charter schools succeed in Pennsylvania. Many school districts oversee just one charter and may

Voices:

"Six years ago when a group of school districts came to us with a need for a Mandarin class, my school hired a certified instructor and developed two Mandarin classes for the charter school and offered it to the districts. Last week one local school district called in a panic because they had just lost their Mandarin teacher and we were able to support their 30+ students to meet their needs."

-Jon Marsh, CEO, 21st Century
Cyber Charter School

not have the resources to fully educate themselves on how to best serve as an effective authorizer. The board should give school districts access to materials that will enhance their authorizing skills.

- **Developing and implementing a new charter school appeals process.** The proceedings surrounding the revocation of any charter are highly emotional because so much is at stake. The current process takes years of appeals and court proceedings that cost too much money and put the education of students in a prolonged state of limbo. The board will review and seek input on how to develop a revocation appeals process that works in a timely and cost-effective manner (e.g., allow for a streamlined and expedited process) in which all parties involved understand the process and their options.
- **Serving as a repository and publisher of best practices information for both the charter schools and school districts.** One of the most disappointing “misses” in the Pennsylvania charter school system is the failure to share what is working so that other schools may learn. The new board should develop ways to disseminate best practices, either through reports or by holding regional meetings for charters and school districts to discuss current issues, solutions to problems, and encourage sharing of best practices.

Authorizer Power and Duties

THE LAW: The CSL specifies the basis that a school district may “choose to revoke or not to renew the charter” “during the term of the charter or at the end of the term of the charter.”¹¹ It also specifies additional criteria for the School District of Philadelphia, under corrective action status, to “place specific conditions in the charter that require the charter school to meet specific student performance targets within stated periods of time.”¹²

WHERE WE ARE: School districts often feel powerless to address serious concerns regarding charter schools.

During the recent public meetings representatives of both charter schools and school districts repeatedly stated that the current charter school laws have “no teeth” when it comes to oversight. Charter schools say it is unfair for districts to jump quickly to revocation, while school districts are frustrated by a perception of limited options for intervention when problems are identified.

The School District of Philadelphia is the exception because, as part of the renewal process, the CSL currently allows the school district to grant a one-year charter renewal¹³ and outlines the ability to impose conditions regarding student performance that must be met within a certain timeline.¹⁴ Failure to meet performance targets can result in charter revocation. While any authorizing school district may impose stipulations at any time, it would be prudent to statutorily prescribe that option for all school districts. Districts need clearer guidelines and guidance to impose performance measure conditions on charter schools, and every school district should have the one-year renewal option to give the district and charter time to work through issues without disrupting students’ education.

While the enforcement powers given to the proposed state oversight board (as described earlier) will help school districts retrieve information from charter schools, empowering school districts to intervene before the charter renewal period will be critical to making tangible improvements to charter schools. As Helen Gym from Parents United for Public Education stated during the public meeting in Philadelphia, “Why do we wait five years to find out what is going on in charters?”

The experience of the Pocono Mountain School District underscores the enormous challenges school districts face in trying to hold a charter school accountable. During the charter renewal process in 2006, the district added performance measure conditions for the charter to meet. Two years later the district held 16 hearings to address charter school compliance concerns, and in 2010 the school board unanimously voted to revoke the charter school’s charter.



¹¹ 24 P.S. § 17-1729-A(a)

¹² 24 P.S. § 17-1729-A-(a.1)

¹³ 24 P.S. § 17-1720-A(b.1)

¹⁴ 24 P.S. § 17-1729-A(a.1)

Now in 2014, nearly a decade after concerns were identified, the charter school is still open, even though its charter has been revoked, it has no board of trustees, and is being run by a court-appointed custodian. Appeals, paperwork, and court decisions have drawn the charter revocation process out for many years. The school district alone has spent approximately \$400,000 in its attempts to enforce its authority to hold the charter school accountable. This is public tax money that could have been used to reinstate a summer tutoring program that was eliminated. The charter revocation process should not be this cumbersome or costly, regardless of whether the school district or the charter school is in the right.

In addition to districts having unclear options for intervention, there is no incentive for charters to perform well and exceed performance requirements.

WHAT’S NEEDED: Revise the CSL to 1) statutorily prescribe options for the ongoing, fair and transparent intervention when a school district raises serious concern about a charter school; and 2) reward high-performance charters.

Intervention for academic, financial, management, legal reasons, and non-compliance by a charter should be addressed swiftly and with strong consequences. The CSL should be revised to specifically prescribe authorizers’ power to impose conditions on the charter that must be met by a specific deadline and should include clear ramifications if the conditions are not met. Though this is technically allowed under the current CSL, it would be helpful to specifically prescribe it as an option, as is currently provided for Philadelphia.

In addition, all charter authorizers should be allowed to implement a one-year renewal term when the charter school’s academic performance is below standards. Currently, the School District of Philadelphia has this additional authority, so that “a governing board of a school district of the first class may renew a charter for a period of one (1) year if the board of school directors determines that there is insufficient data concerning the charter school’s academic performance to adequately assess that performance and determines that an additional year of performance data would yield sufficient data to assist the governing board in its decision whether or not to renew the charter for a period of five (5) years.”¹⁵

The CSL should also allow the authorizing school district to reward high performing charter schools by extending their renewal period to seven years and expedite the process for expanding or replicating their school. Incentivizing and rewarding strong charter school performance might motivate other schools to excel.

What is the Department of the Auditor General’s role in school review?

The Department of the Auditor General’s Bureau of School Audits examines the records of school districts, charter and cyber charter schools, intermediate units, and area vocational-technical schools. The audits — among other things — assess whether or not school entities received the state subsidies and reimbursements to which they were entitled, accurately managed taxpayer funds, had appropriate school safety plans in place, and complied with provisions of the Ethics Act. The audits also determine whether teachers and administrators were properly certified for the positions they held.

¹⁵ 24 P.S. § 17-1720-A(b.1)

Charter School Annual Report

THE LAW: The CSL says that school districts “shall annually assess whether each charter is meeting the goals of its charter”¹⁶ and “in order to facilitate the local board’s review and secretary’s report, each charter school shall submit an annual report no later than August 1 of each year.”¹⁷ Special education regulations effective July 1, 2008 require the reporting of special education data in the charter school annual report.¹⁸

WHERE WE ARE: Charter schools’ annual reports fail to communicate critical information and most authorizers have little, if any, dialogue with charters between renewals.

An annual report is an opportunity for charter schools to share information and performance data not only with the authorizer, but with parents, students, and the public. Updates on meeting performance measurements, results of new teaching methods, and student and faculty turnover rates are all pieces of information that an annual report should provide. Currently, the opportunity is missed because the reports are difficult to locate and follow.

Currently there are numerous problems with the charter school annual report required by the CSL, including:

- Charters are required to follow a poorly executed annual report template created by the Pennsylvania Department of Education (PDE). Many charter schools assume that the PDE template requests all of the information that is required by law. However, audits by the Department of the Auditor General suggest otherwise. For example, the annual report is the only source auditors have to obtain special education data about charter schools, and that information was not initially requested in the PDE template.



- The PDE template was not designed to allow the charter schools to report specific information within the annual report itself. Instead, charters include attachments of files with important data that are inaccessible to the public because PDE does not upload annual report attachments to its website.¹⁹

- All of the information contained in the annual report is self-reported. Currently, no one has responsibility to verify the information. The Department of the Auditor General has found in numerous audits that some charter schools copy and paste information from old reports into the current year’s report without changes.

¹⁶ 24 P.S. § 17–1728-A (a)

¹⁷ 24 P.S. § 17–1728-A (b)

¹⁸ 22 PA Code. § 711.6

¹⁹ Our understanding is that PDE will issue a revised annual report template that will request special education data.

WHAT'S NEEDED: Overhaul the annual report template and require charter schools to verbally present their report to the authorizer in a public meeting.

We recommend that the proposed charter school oversight board review charter school annual reports from other states, and speak with schools and parents' groups to gain a better understanding of what information is most helpful and how that information can be clearly communicated. A clearly defined "performance matrix" that encapsulates key academic performance measurements for every school should be a required feature in the revised annual report template, including information already being collected via the PDE School Performance Profile.

A review of reports produced in other school systems provide great ideas on how a template may be formatted. The annual report format used by the Charter School Institute at the State University of New York is a good example of an effective annual report in terms of its ability to communicate the methods a charter school uses, and the results in meeting previously established goals.²⁰ The title of the report captures its purpose and contents: "Accountability Plan Progress Report."

In terms of capturing annual report information and turning it into a resource for parents, the user-friendly approach that the District of Columbia Public Charter School Board (DCPSB) uses to capture key measures and information on charter school performance is impressive. The DCPCSB report pares data down to critical measures and uses graphics, colors, and simple language to give an informative snapshot of a charter school.²¹ The New Orleans "Parents Guide to Public Schools" is also good example of providing information to parents interested in reviewing school options for their children, as mentioned by Helen Gym from Parents United for Public Education.²²

Requiring brick-and-mortar charters to present their annual report at a public meeting of the authorizing district's school board will help increase accountability to both that board and the local taxpayers. This will force the charter school providers and school districts into regular dialogue to help identify concerns and best practices before the renewal process. Cyber schools should present their annual report before

Voices:

"Although the annual reports are available on the Department of Education website, few parents know they exist and even fewer have the inclination to spend the time it takes to read hundreds of pages of detailed and often confusing information. The reports are inconsistent in what they cover. Some years, the reports have contained financial information. Other years, they have not contained any information about budgets, audits, or spending. Parents choose schools based on the reputation of the school and the common wisdom of the parents' network of friends and community members. They focus largely on their impression of the safety of the school environment and its reputation as a 'good' school, not its finances."

-Susan L. DeJarnatt, Professor of Law at Temple University Beasley School of Law

²⁰ See example at <http://www.newyorkcharters.org/pdf/2010-11AccountabilityProgressReports/AchievementAcademy2011AccountabilityPlanProgressReport.pdf>

²² <http://neworleansparentsguide.org/files/NOPG2014.pdf>

the PDE and webcast the presentation to give students and families across the state an opportunity to review the material.

The overhauled template combined with the public meeting gives strong performing charter schools an opportunity to display their successes. Those opportunities are clearly lacking in the current system, denying charter schools the ability to demonstrate their strengths and school districts the chance to learn about new educational methods.

Given how critical of the role annual reports will play once a new template is implemented, the proposed charter school board of oversight should be responsible for diligently verifying all of the self-reported information. Charter schools must be required to provide documentation that supports and verifies the information they report. The Department of the Auditor General can include annual report verification when it audits charter schools.

Special Education Funding

THE LAW: The CSL defines the funding formula for special education and allows charter schools to request the intermediate unit in which the charter school is located to provide services. Special education regulations apply to all charter schools and require that they have regulations in place to ensure student evaluations are conducted by a designated Individual Education Plan (IEP) team.²³

WHERE WE ARE: The special education evaluation process creates tension and hostility between authorizers and charters.

All schools must devote more resources to meet the needs of students requiring special education accommodations to fulfill a Individual Education Plan (IEP). Therefore, districts pay a higher tuition rate to charter schools when students are classified as special education. Currently, charter schools can re-classify a student as special education regardless of whether the student was previously classified as such by the school district, and without review by the authorizing school district that is required to pay increased tuition rates. The lack of accountability and higher tuition reimbursement rates is causing additional financial strain on school districts, and is contributing to the poor relationship between some districts and charter schools.

The one-payment-fits-all system in Pennsylvania is also problematic. Receiving the same special education tuition regardless of the student's needs is illogical and again makes it tempting to focus more on dollars and less on a student's need. David Lapp, staff attorney at the Education Law Center, said at the Fairless Hills public meeting that this creates a "perverse incentive for charter schools to over-identify students with mild disabilities and to under-served students with more severe or costly-to-serve disabilities."

WHAT'S NEEDED: Change regulations to allow the Department of Education's Special Education Division to serve as the intermediary between charter schools and school districts when a student classification is in dispute, and to create a tiered funding mechanism for special education students.

Giving appeal authority to a third party without a financial stake in the outcome of the special education classification would create a system that would put the student's needs first. PDE's Special Education Division is already equipped to carry out this function, since it is already tasked with overseeing special education services and performing audits of those services. Under the revised regulations, any school district, as an authorizer or a sending district, would be given the authority to request an appeal for any student in its district when a student is reclassified after transferring to a charter school.

A tiered special education classification system is a great way to reduce the incentive for charters to attempt to enroll students with mild disabilities as opposed to those who require costly assistance. Under this concept, rather than a flat rate, multiple levels of special education funding will be provided, depending on the costs associated with the services the child needs. Combined with using PDE for the appellate process, this system will be helpful in addressing the financial strain and hostility occurring under the current system.

²³ 24 P.S. § 17-1732-A-(b)

Cyber School Funding

THE LAW: The CSL defines the funding formula for cyber charter schools as identical to that for brick-and-mortar charter schools, and prescribes the timing of payment by the school district to the cyber charter school. Pursuant to Act 88 of 2002, PDE is the sole authorizer of cyber charter schools.

WHERE WE ARE: School districts have no oversight of cyber schools but are forced to pay a rising number of tuition payments.

The charter school law makes the Pennsylvania Department of Education the sole authorizer for cyber charter schools. As a result, school districts are forced to send tuition payments to schools when they are given no voice and no oversight. Cyber schools must accept students from all 500 school districts, and, because of disparities in the per-pupil funding formula, they may receive up to 500 different basic education tuition rates and 500 different special education tuition rates.

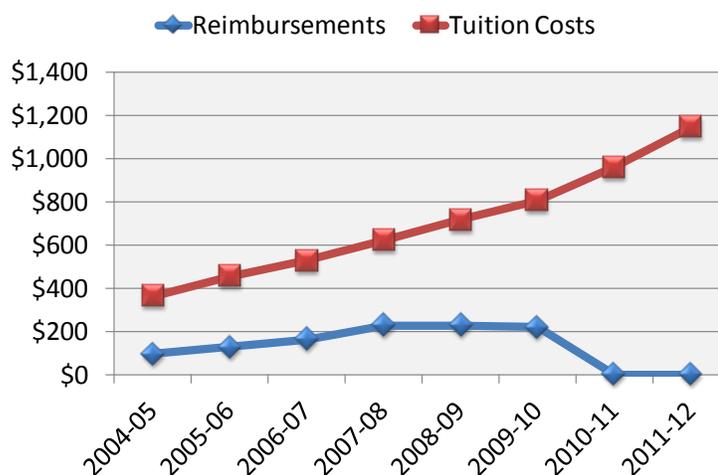
Traditional public schools, particularly in rural areas, cite losing funding to what is essentially a statewide cyber school system as one of the biggest challenges impacting their budgets. In fact, Mark Bower, from the PA Association for Rural and Small Schools, said during the public meeting in Ebensburg that concerns about rising cyber charter tuition is second only to concerns about rising pension costs. In addition, many school districts and Intermediate Units are beginning to offer online education themselves for a fraction of the cost of many cyber charters. Matthew Splain, superintendent of Otto-Eldred School District in McKean County, underscored these challenges at the public meeting in Ebensburg:

Voices:

“Removing ... 15 students from our rolls does not decrease our instructional cost for the remaining 700 students, yet, their cyber-school tuition absorbs over \$185,000 from our budget. This expense is another example of a cost that is totally outside of the district’s control. Our responsibility to provide free and appropriate education becomes secondary to uncontrolled costs related to cyber schools, health care and pensions.”

-Matthew Splain, Superintendent of Otto-Eldred School District

Effect of Charter School Tuition on School District Finances
Tuition Payments to Charters vs. State Tuition Reimbursements
(in \$Millions)



“Since 2010-11, our cost to cyber-schools has quadrupled (\$45,000 to \$185,000). Our current cyber enrollment stands at 15. For the total cyber cost of these students, we could employ two full-time teachers that could educate 40 or more students. For less than one-third of the cyber cost, our district could provide these same students a full, online education with all the benefits of attending their local public school. When local dollars are spent with local control, the most efficient use of the dollars is found.”

WHAT’S NEEDED: Eliminate cyber school payments from school districts and replace funding with direct payment from the state.

The direct payments from the state should be based on a fixed amount per cyber school student, regardless of the originating school district. This proposal was made repeatedly over the past several years, and most recently by Rep. Jim Christiania’s HB2147²⁴ and Rep. Jim Roebuck’s HB1652, which make this change with an appropriation in the state’s general fund being used to fund the cyber schools. With this change, school districts win because it frees up money that can be used for other educational services. At the same time, cyber charter schools will reduce their administrative costs because instead of dealing with various payments from potentially hundreds of school districts, they would accept payment from one entity.

24

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2013&sessInd=0&billBody=H&billTyp=B&billNbr=2147&pn=3327>

Admissions, Transparency, and Management/Operations

WHERE WE ARE: The statutory provisions in the CSL and guidelines for charter schools are incredibly outdated and do not reflect the current realities.

Since charter schools were first authorized in 1997, Pennsylvania has made very few changes to the CSL and guidelines beyond making PDE the cyber charter school authorizer, and eliminating charter reimbursements paid to school districts until 2011. However, a lot has changed in Pennsylvania in the past 17 years; the CSL and guidelines for charter schools need to be updated to ensure our education system is keeping up with the needs of all students.

WHAT'S NEEDED: Update the CSL in the following areas:

Admissions and Enrollments — Charter schools are public schools that, like school districts, accept all students regardless of physical abilities or financial, academic, or family situations. The enrollment and lottery admission process should reflect that mission and be free of requirements or penalties that may create burdens or roadblocks for certain students.

It is clear that many parents will go to extremes to enroll their child in a charter school. For example, Hazel Blackman, chair of the Western Regional Council of ACTION United, spoke at the public meeting in Allegheny County about walking three miles in 90-degree temperatures to enroll her son because she did not have a computer and public transportation did not extend to the school. She said that she does not like “how hard it was to apply and thinks that it keeps some parents without cars or computer from being able too.” Bill Bartle, education policy director at Pennsylvania Partnerships for Children, said at the meeting in Ebensburg that, “enrollment barriers come in various forms, such as requiring the submission of report cards, PSSA results, other examples of student achievement, student essays, teacher and community member recommendations or the participation in student and parental interviews.”

The following should be implemented by the proposed charter school oversight board:

- Mandate implementation of a standard, statewide charter school student admissions form and prohibit schools from requiring submission of information beyond standard identification details and residency requirements. The onus is on the charter school to obtain any additional information, with the student’s parent/guardian signing a simple form permitting the charter to do so. For example, if a charter school’s mission is to enroll students with a specific interest (e.g., math, science, arts), the charter school itself must obtain information on prerequisite courses. This will help to ensure a level playing field for all students interested in attending a charter school;

Voices:

“I love the environment and mission of the school, but being a charter school should not mean that the school is free from having to provide proper paperwork, follow safety procedures and offer parents the right information and support for their children. I know there’s a school budget crisis affecting all schools. But all schools still need to be accountable for the education, safety and support for their children. It takes more than a fresh coat of paint and the word ‘charter’ in the name to make a good school.”

-Tanisha Robinson, Parent

- Require charter schools to post updated waitlist numbers regularly on its website so that prospective families and school districts can better gauge demand. The waitlist numbers should also be made available for those without computer access by calling the charter school’s office; and
- Create a transparent and fair lottery admission system through a standard enrollment process that follows the admissions form guidelines described above.

Professional Staff — The importance of quality teachers is paramount regardless of the type of school. Changes should be made to ensure that charter school teachers receive the same feedback and measurements as teachers at traditional public schools.

- Require charter schools to have the same teacher/principal performance evaluations as school districts; and
- Establish clear guidelines on how charters should calculate the 75 percent-of-teachers- certified requirement, and assess penalties against those charter schools that do not meet the certification standard (similar to the penalties that are currently assessed to school districts who fail to meet their 100-percent-certified requirement).



Transparency — Charter schools and traditional public schools should be subject to the same level of transparency, without exception.

- Allow noncompliance with the Right-to-Know Law to be a factor in charter school renewal decisions. According to the director of the Office of Open Records, Terry Mutchler, charter schools are the most frequent violators of right-to-know requests;
- Create a website that would clearly identify expenditures for all schools, including traditional public schools and charter schools. This would include spending on vendor contracts, superintendent buyouts, leases, and transportation. Rep. Christiana’s SchoolWATCH (HB 1411)²⁵ and CharterWATCH legislation (HB 1412)²⁶ provides a potential framework for such a reporting mechanism.
- Apply additional transparency rules regarding board meetings of public school boards — including quorum and meeting minute requirements — to all charter schools;
- For both traditional public schools and charter schools, require the complete contract for management services to be electronically posted on the school’s own website within 10 days of execution, and include contract oversight and enforcement information; and

²⁵

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2013&sessInd=0&billBody=H&billTyp=B&billNbr=1411&pn=2824>

²⁶

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2013&sessInd=0&billBody=H&billTyp=B&billNbr=1412&pn=1840>

- Require charter schools to request and receive a timely public hearing and school district vote on approval from the authorizing district for any amendment or new contract for educational services.

Management and Operations — With 17 years of experience available, it is time to implement changes to help improve the management and operations of charter schools and help rebuild the relationship with authorizing school districts.

- Absent an overhaul of the state’s school funding formula, reinstitute the charter school tuition reimbursement from the state to offset charter school tuition paid by school districts. As financially difficult as this may be given current state budget projections, it is absolutely critical in order to foster productive relationships between charters and districts;
- Impose the same limits on charter school fund balances as imposed on school districts but provide for a waiver process for certain exemptions such as construction or renovation of facilities. Encourage schools, as recommended by Nathan Benefield of the Commonwealth Foundation, to use available fund balances to “prepay their pensions costs” and “invest some or all of their fund balances with the Public School Employees Retirement System”; and
- Overhaul the charter school building lease reimbursement provision to provide clarity and penalties for noncompliance. For example, the law should specify which related parties are prohibited from receiving reimbursement for annual lease costs. It should require the proposed charter school oversight board to approve lease reimbursements and authorize the new state oversight board to recoup funds if a payment is later deemed to have been improperly paid.

APPENDIX A

Charter school public meeting locations, dates, and speakers *Access testimony by clicking on testifier's name*

Allegheny County

February 25, 2014

Ms. Hazel Blackman, Parent Leader, Action United

Mr. Stephen Catanzarite, Executive Director of Development, National Network of Digital Schools

Mr. Jeremy Resnick, Executive Director, Propel Schools Foundation

Ms. Jenny Bradmon, Executive Director, PA Families for Public Cyber Schools

Dr. Linda Hippert, Executive Director, Allegheny Intermediate Unit

Ms. Catie Stephenson, Public Affairs Manager, PennCan

Easton

February 27, 2014

Mr. Mike Crossey, President, Pennsylvania State Education Association

Ms. Terry Mutchler, Executive Director, Pennsylvania Office of Open Records

Mr. Jon Marsh, Chief Executive Officer, 21st Century Cyber Charter School

Ms. Susan Gobreski, Executive Director, Education Voters of PA

Dr. Joseph Roy, Superintendent, Pocono Mountain Area School District

Mr. John Reinhart, Superintendent, Easton Area School District

Ebensburg

March 6, 2014

Mr. Matthew Splain, Superintendent, Otto-Eldred School District (PA Assn. for Rural and Small Schools)

Mr. Mark Bower, Superintendent, Rockwood Area School District (PA Assn. for Rural and Small Schools)

Mr. Anthony J. Pirrello, Chief Executive Officer, Montessori Regional Charter School

Dr. Maurice "Reese" Flurie, Chief Executive Officer, Commonwealth Connections Academy

Mr. Bill Bartle, Education Policy Director, PA Partnerships for Children

Dr. Brian Griffith, Superintendent, Penns Valley Area School District

Fairless Hills

March 7, 2014

Mr. Larry Feinberg, Board Member, School District of Haverford Township (Representing PA School Boards Association)

Mr. John Swoyer, Chief Executive Officer, MaST Community Charter School

Ms. Karen Shade, Chief Executive Officer, School Lane Charter School

Mr. Ron Cowell, President, The Education Police and Leadership Center

Mr. Ryan Schumm, Charter Choices

Mr. David Lapp, Staff Attorney, Education Law Center

Mr. Kevin Corcoran, Assistant Head of School/Director of School Improvement, Agora Charter School

Philadelphia

March 14, 2014

Ms. Helen Gym, Co-Founder, Parents United for Public Education

Ms. Donna Cooper, Executive Director, Public Citizens for Children and Youth

Mr. Nathan Benefield, Vice President of Policy Analysis, Commonwealth Foundation

Mr. Alan Butkovitz, Philadelphia City Controller

Mr. Adam Schott, Director of Policy Research, Research for Action

Mr. Jonathan Cetel, Executive Director, PennCan

Mr. Rich Migliore, Former Teacher and Administrator, Democracy in Education

Dr. Walter D. Palmer, Walter D. Palmer Leadership Learning Partners Charter School

Mr. Paul Kihn, Deputy Superintendent, School District of Philadelphia

Mr. Lawrence Jones, Chief Executive Officer, Richard Allen Preparatory Charter School, Inc.

Ms. Wanda Logan, Leader, Action United

Ms. Tanisha Robinson, Parent, Chester County

Mr. Mark Gleason, Executive Director, Philadelphia School Partnership

Testimony provided by those that did not appear in person

Professor Susan DeJarnett, Temple Law School, Philadelphia

Ms. Ashley DeMauro, StudentsFirst, Harrisburg