

**Pennsylvania Association of School Administrators**

**White Paper**

# **Charter School Reform: Recommendations for Policy Makers**

Dr. David Baugh  
Superintendent, Centennial School District

Dr. Brett Gilliland  
Superintendent, Mount Union Area School District

Mr. James Estep  
Superintendent, Mifflin County School District

Dr. Mark DiRocco  
Executive Director, Pennsylvania Association of School Administrators

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## Executive Summary



The conversation around charter schools continues to split the Commonwealth of Pennsylvania. This is based on the deeply flawed assumption that the same amount of money can appropriately fund two separate and distinct systems of education. The collaboration between charter schools and public education has not occurred because of the inherent competitive structure built into the legislation. Recently, the conversation has shifted somewhat to the notion of choice as a means of supporting charters. However, the underlying flaws of the charter school legislation are cause for serious concern and prompt action.

The charter school law in Pennsylvania is in need of substantial reform, as was made highly evident by on April 12, 2016, Pennsylvania Auditor General Eugene DePasquale, who released a Performance Audit of the Philadelphia School District's Oversight and Monitoring of District Authorized Charter Schools. The report was very critical of the Pennsylvania Charter School Law and its negative impact on the fiscal operations of the Philadelphia School District. At a press conference, DePasquale stated, "Our charter school law is simply the worst charter school law in the United States." Specifically, DePasquale said, the law fails to give districts the power to ensure that only high-performing charters that serve equitable populations of children are opening. And he lamented that districts waste too much time and too many resources fighting to close underperformers (Newsworks, 2016).

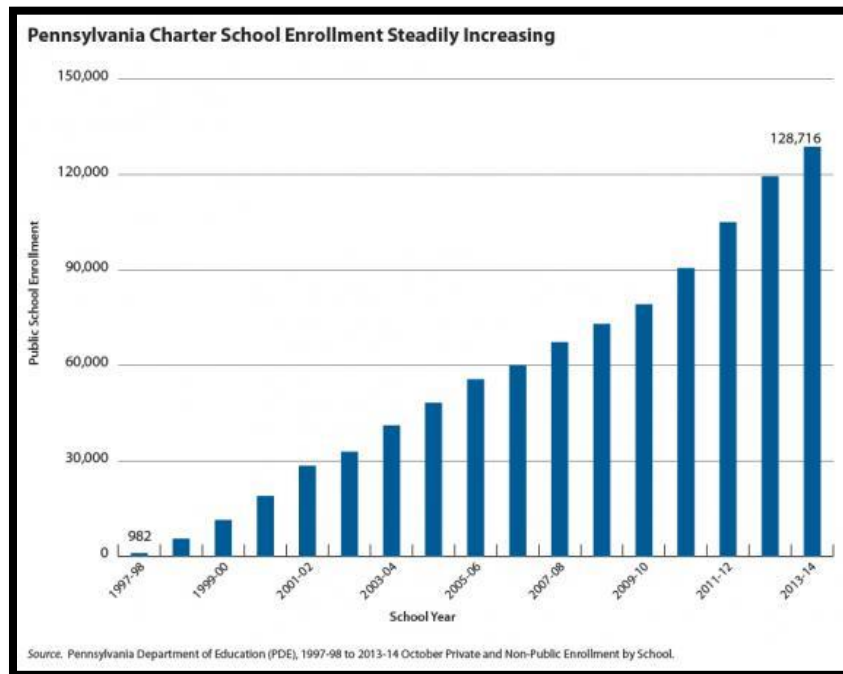
Pennsylvania's 1.5 million students need the state legislature to ensure that **all** students receive a fair and equitable education. Pennsylvania's superintendents and school leaders not only recognize that charter schools are part of the landscape but celebrate successful examples of high quality alternative education. Schools like CHAD (Charter High School of Architecture and Design), String Theory Music School, or Freire are examples of charter schools that are working well and providing quality learning experiences to students. Regrettably, due to flaws in the foundational structure of charter legislation, there are far more examples of malfeasance, misfeasance and nonfeasance in charter school operations than there are exemplars. There have been serious issues of fraud and poor academic performance that need to be addressed in order for the tax-paying public to have trust and confidence in current charter system. Parents and children must be able to make well-informed decisions about the public schools they choose to attend through the charter school options available to them.

## **Recommendations**

The Pennsylvania Association of School Administrators (PASA) has crafted the following white paper to address systemic issues, as the need for charter school reform remains a perennial elusive issue. PASA believes that charter school law can be improved for both charter schools and traditional public schools by implementing the following recommendations:

1. The funding formula for charter schools must be changed to reflect the actual cost needed to educate students in these alternative environments.
2. The cost of special education students attending charter schools must reflect the actual cost to instruct students through the IEP process.
3. Over-identification of special education students by charter schools must be addressed.
4. Professional educators in charter schools must meet the same certification requirements as educators in traditional public schools.
5. Charter schools must be evaluated by the same measures as traditional public schools to ensure the public can compare the effectiveness of all schools supported by public tax dollars.
6. More scrutiny and review must be applied to cyber charter schools, as their academic performance is significantly lower than brick-and-mortar charter schools, and traditional public schools.
7. Public school districts must have the authority to properly oversee and evaluate charter schools.
8. The Charter School Appeal Board must consist of neutral, nonpartisan members who will be objective in the hearing process.
9. Billing discrepancies between school districts and charter schools should be reconciled between the two agencies. The process of automatic withholding of subsidies from school districts based on a charter school's claim must cease.
10. Charter schools must display the same level of transparency with their finances that is required of traditional public school districts.
11. The enrollment and selection process of charter school students must be transparent and free of any form of discrimination.

## History of Charter Schools



Source: Pennsylvania Budget and Policy Center

The Pennsylvania Charter School Law was enacted by the legislature and signed by the Governor in 1997 allowing for the creation of charter schools. Charter schools are public schools that are independently operated and were intended to provide innovative alternatives to traditional public schools. As technology advanced, the charter school law was amended in 2002 to allow for the inclusion of cyber charter schools. Both charter and cyber charter schools are primarily funded by tuition payments from public school districts.

The charter school law in Pennsylvania establishes a process and specific timeline for the submission of applications to operate a charter school, including the scheduling of hearings and the approval process. If a charter application is denied, the charter school law also provides for an appeal process through the Charter Appeal Board. The local public school district typically monitors the brick-and-mortar charter schools it authorizes, while the Pennsylvania Department of Education monitors cyber charter schools. Charters may be authorized for a minimum of three years or a maximum of five years.

The movement toward charter schools goes back several decades. According to the US Charter Schools website, "The charter school movement has roots in a number of other reform ideas, from alternative schools, to site-based management, magnet schools, public school choice, privatization, and community-parental empowerment. The term 'charter' may have originated in the 1970s when New England educator Ray Budde suggested that small groups of teachers be given contracts or 'charters' by their local school boards to explore new approaches." (US Charter Schools, 2002). A former president of the American Federation of Teachers (AFT), Albert Shanker publicized the idea, suggesting that an entire school could be chartered by local school boards with union and teacher approval. In the late 1980s, Philadelphia started a number of schools-within-schools and called them "charters." Some of them were schools of choice. The idea was further refined in Minnesota based on three basic values: opportunity, choice and responsibility for results (US Charter Schools, 2002).

In 1991, Minnesota passed the first charter school law, with California following suit in 1992. By 1995, 19 states had signed laws allowing for the creation of charter schools, and by 2015 that number increased to 42 states, Puerto Rico, and the District of Columbia. Charter schools have steadily grown every year for over a decade, enjoying broad support from governors, state legislators, and past and present secretaries of education. Charter schools continue to grow in number and increased by 6 percent from 2009 to 2014. In his 1997 State of the Union Address, President Clinton called for the creation of 3,000 charter schools by the year 2002. In 2002, President Bush called for \$200 million to support charter schools. Since 1994, the U.S. Department of Education has provided grants to support states' charter school efforts. (National Charter School Resource Center, 2017)

Since the first Charter School Program grants in 1994, the federal government, through the U.S. Department of Education, has spent nearly \$4 billion in support of charter schools. These funds have mostly been dispersed to state education agencies, who then pass along the funds to charter schools for various expenses. Startup expenses in particular are offset by these funds. The fiscal year 2016 budget included \$333 million earmarked for charter schools. Additionally, Congress has increased the amount of funding to charter schools. Having had consistent presidential backing since the Clinton administration to the present day, charter schools seem likely to continue their rapid expansion. (National Charter School Resource Center, 2017).

From the beginning, charter schools have been organized as nonsectarian public schools of choice that function with freedoms from many of the regulations that direct traditional public schools. As Evans noted, on the US Charter School website, "The 'charter' establishing each such school is a performance contract detailing the school's mission, program, goals, students served, methods of assessment, and ways to measure success" (US Charter Schools, 2002). The length of time for which charters are granted varies, but most are granted for three to five years. At the end of the term, the school's contract may be renewed by the entity that granted the charter (US Charter Schools, 2002). Charter schools are guided by two principles. The first is that charter schools will operate as autonomous public schools. The second principle is that charter schools will use innovative pedagogy.

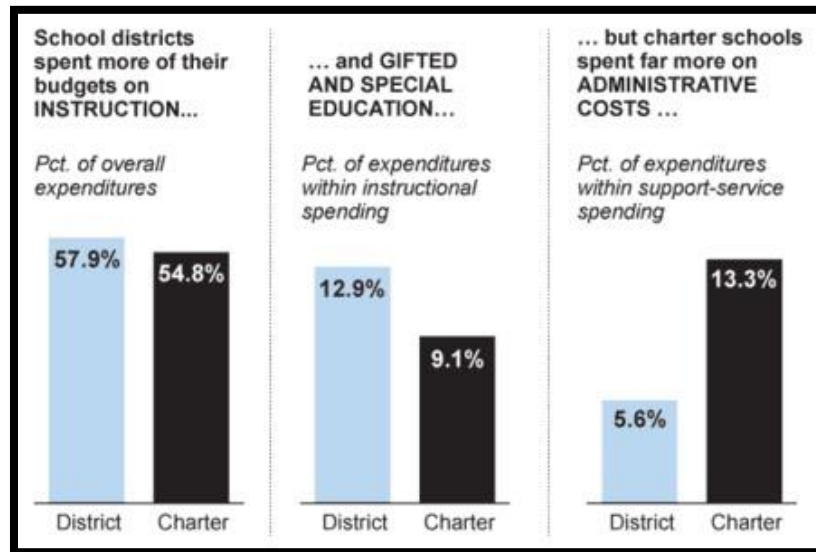
The political rationale for charter schools is best understood by examining the politics surrounding charter school legislation. Charters emerged as a compromise between public school defenders and advocates of expanded consumer choice in education. In fact, charter legislation has been used to fend off voucher proposals in several states (Wohlstetter et al., 1995). Public school defenders have been willing to accept charters because the schools are open to all students and supported by public funds. The author of the NCPublicSchools.org website explained, "Charter schools provide parents a choice in the public education of their children, and it is a public choice" (NCPublicSchools.org, 2002).

Charter schools are funded primarily by public tax dollars. In fact, local, state and federal dollars follow the child to a charter school. They have an open enrollment with no discrimination; some may have a religious association and no tuition. Charter schools generally are small, averaging 140 students per school. Additionally, charter schools are operated under a private, nonprofit board of directors, which is autonomous from the elected Local Boards of Education operating the traditional school system.

"Charter schools are accountable to their sponsor, usually a state or local school board, to produce positive academic results and adhere to the charter contract" (US Charter Schools, 2002). The basic concept of charter schools is that they implement increased autonomy in return for this accountability. They are accountable for both academic results and fiscal practices to the sponsor that grants them, the parents who choose them, and the public that funds them.

See Appendix A for a timeline representation of the history of charter schools.

## Funding



Source: Pennsylvania School Boards Association (2016)

Funding for charter schools in Pennsylvania is deeply flawed, based on a formula that is not reflective of the actual cost to operate these educational programs, especially cyber charter schools. Rather, the tuition per student is based on the cost of the sending specific district to educate children as if they remained in their home school district. Included in that sending district's tuition cost are numerous expenditures that are not reflected in a charter school's tuition costs, including gifted education, extra-curricular costs and busing/transportation (ironically, since school districts must then expend additional funds to transport charter students). Even the cost of collecting taxes is included in the calculation for public school tuition. These costs are then bundled together to calculate the "cost" of tuition, even though brick-and-mortar charter schools do not incur all these expenses, and cyber charter schools operate with very little infrastructure overhead. In other words, the formula requires traditional public schools to send more money to charter schools than is needed to operate their programs. The result is a windfall for the charter schools and a deficit for traditional public schools, particularly for those with a higher concentration of charter students.

In 2013, Pennsylvania Auditor General Jack Wagner stated that Pennsylvania taxpayers were being overcharged \$385 million annually for charter school services. Additionally, there have been many documented cases of fraud and abuse by charter schools. The founder of Agora Cyber Charter School was charged with defrauding three charter schools of \$6.5 million between 2007 and 2011 despite earning a salary of \$5 million for calendar year 2011. In 2012, nineteen charter schools in Philadelphia were under investigation by federal authorities for fraud and theft, charges that led to several convictions (Gallo, 2014). Such rampant and scathing lack of accountability needs to be addressed to ensure that taxpayers are not being used to line the pockets of unethical profiteers at the expense of children.

A recent report from the PA Legislative Budget and Finance Committee (May 2017) found that the financial cost of charters to school districts is high, noting that over 40 percent of the school districts with significant charter enrollment are known to be facing fiscal challenges. The report also found that many charter schools attract students from private schools, students who were never enrolled in the school district, thereby shifting educational costs from private schools and the parents of those students onto the public sector and taxpayers.

**Solution: Develop a fair and reasonable funding formula that is reflective of actual costs to educate students in charter schools. Oversight of charter schools needs to be as open and transparent as that of public schools. The funding formula has to be revised and equitable accountability measures must be in place for charters as well as public schools. Budgets must be posted for easy accessibility on their websites and a PDE-2028 form for public budget inspection must be readily visible.**

## **Special Education Charter Tuition Formula**

As has been noted repeatedly by the Auditor General's Office, as well as through numerous news articles and research, the charter and cyber charter tuition funding formula for special education is inherently flawed in its design. Despite formal pleas to the state legislature to rectify this issue, the formula has remained in its original form, and local school systems from all strata continue to feel its adverse impact.

If a student is identified as qualifying for special education services by a charter school, the tuition more than doubles, sometimes approaching three times the cost of a regular education student. Often the special education finding is a speech and language diagnosis, which is the least expensive special education diagnosis. In Pennsylvania there is no mechanism to clearly identify how much special education should cost based on the actual services needed. Most concerning is the trend in many, though not all, charters to encourage families with children who have severe learning disabilities and differences to re-enroll in traditional public schools, which drives up the cost to local school districts and allows the charter school to avoid educating the hard-to-educate child.

One of the starkest examples of harm is what has happened in the Chester Upland School District, where the cost of educating the average special needs student is approximately \$16,000 per year. However, under the current funding formula, the district was forced to pay special education tuition at a rate of nearly \$42,000 per year per charter student, with charter tuition comprising almost half of the district's entire district budget. Even though a court order reduced that amount to \$27,000 per student per year, the damage done over the years at the higher rate has already taken an immense fiscal toll on the system. As another example, in one rural district, the average cost to educate a special needs child is about \$14,000 per year, yet the charter tuition for a student with special needs averages \$20,300 per year.

In both urban and rural settings, where tax bases are often low, these additional dollars can mean the difference between keeping a needed program in place or cutting that program to balance the budget. It can mean the difference between keeping an extra early childhood teaching position in place to keep class sizes lower, or cutting the position and packing those same early childhood classrooms so full that individual learners can't get the attention they need at the most critical time in their cognitive and social development.

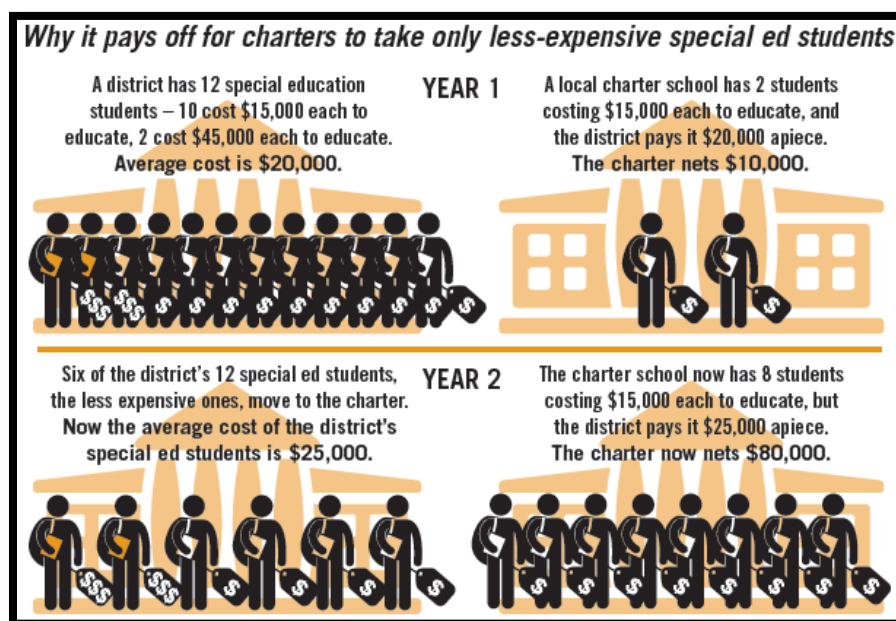
Because of its design flaws, the tuition formula's adverse effects manifest themselves in two distinct but interconnected ways, ultimately harming local public school districts, while also leading charters down a nebulous path in terms of moral and ethical decision-making. By design, it punishes public schools at the local level for identifying students for special needs services. The more students a district has identified, the greater the disparity between district per-pupil spending and charter per-pupil billing for that district. Second, it rewards charters for identifying more students for special education services at the expense of the local schools. A formula shouldn't discourage special needs identification at the local level, as no student in need should fail to receive appropriate services to ensure learning, but disparate formula-driven, per-pupil funding levels also should not tilt in a charter's favor by incentivizing charter schools to identify students as eligible for special services. Both of these scenarios result in serious moral and ethical issues, and these dilemmas are absolutely driven by the flaw in the formula itself.



Professor Bruce Baker of the Rutgers University Graduate School described the situation as the “PA Triple Screw” when it comes to funding charters and cyber charters (Baker, 2012). First, the formula begins with the flawed assumption that 16 percent of each district’s student population requires special education services. This assumption fails to account for those districts with a greater percentage of identified special needs children, just as it fails to account for those with a lesser percentage. Second, the use of this base percentage further throws numbers in disarray when used in combination with a district’s actual costs. Baker looked at different districts across the state, and found that, when the formula calculation was applied, districts in each case were spending more per pupil in charter tuition for special needs students than they were spending in-house to provide the same services. The third and final factor that inflates charter tuition payments is that regular public schools tend to be the places where students with the most profound needs are educated, and the cost of doing so is extraordinarily high, often requiring additional personnel and assistive devices.

In the end, the poorly engineered special education funding formula determination for charter and cyber charter tuition effectively serves as a double-edge sword. Steadily and deliberately, it is leading Pennsylvania down a path to a future where regular public schools will be servicing the most profoundly needy children at a higher per pupil cost, which in turn drives up the amount they must pay in per pupil tuition to charter schools. For many districts, that bleak future has already arrived. Ironically, charter schools aren’t the ones educating the more severely disabled children, yet they are receiving a higher per pupil tuition payment from the very schools that are providing services to these children. From the public school district’s point of view, this profoundly ironic feat of engineering a law that ensures harm of the worst possible kind to the local public schools and the taxpayers that support them is both frustrating and disheartening.

**Solution: Special education funding for charter schools should, minimally, mirror the three tiers of funding the legislature has implemented with the new special education subsidy formula. More realistically, charter schools should be required to submit actual expenses for provided services, and those costs should not be permitted to exceed the total cost to educate the same special needs child in the local public schools.**



Source: Philadelphia Public School Notebook (2014)



## Tuition Formula for Cyber Charter Schools

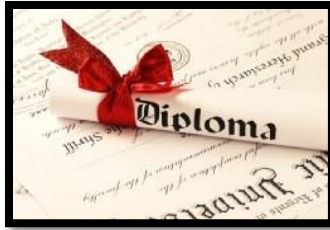
The tuition formula for cyber charter schools is a particularly thorny problem that continues to vex local public schools. In case after case, local school districts are able to educate their students in their own cyber program options for a fraction of the cost of what the majority of cyber charter schools charge sending districts. For example, in Pittsburgh the cost of educating a student via a school-based cyber option is \$2,800. However, the cyber charter options from around the state cost the district \$14,400 per regular education student and over \$30,500 per special education student. On the other side of the state, Centennial School District is able to provide an education option via cyber for \$4,500, regardless of regular education or special education status.

Meanwhile, in Chester Upland, the district spends about \$14,000 for a special education student while cyber charters can charge as much as \$40,000 – with little accountability unless a parent enrolls in a different option. Intermediate units in the southeastern region of Pennsylvania manage the 21<sup>st</sup> Century Cyber Charter with a very economically and fiscally responsible cost. In fact, the charter, which experienced a significant fund balance, attempted to return money to its sending districts due to efficiencies in providing instruction. Unfortunately, because state law does not permit that, the school was directed not to return monies to sending districts. Clearly, providing fiscally responsible cyber charter school such as 21<sup>st</sup> Century Cyber is possible in the Commonwealth – and does not need to drain school district funds.

Cyber charter schools present a real dilemma to the taxpayers of the commonwealth. They can be an academically valid alternative to brick-and-mortar schools but they are not for everyone, and the rigor varies greatly from school to school as does the price point. Data makes clear that the vast majority of cyber charters in the state have terrible academic results. Yet they continue to operate, with students getting sub-standard education and taxpayers footing the bill for tuition payments with little to no accountability. For example, Pennsylvania hosts one of K12's most financially lucrative charter schools in the nation, though it remains an academically troubled institution. Data indicates that, for most cyber charters, the gulf between revenues and actual expenditures is large.

**Solution: A charter school funding commission could quickly and fairly establish a price point for cyber education for the for-profit charters. The district/intermediate unit cyber charters that are successfully operating at a fair and reasonable price point provide an example that can be duplicated. These solutions utilize Pennsylvania-certified teachers, established curricula and pacing guidelines. The cost ranges from \$2,800 to \$4,500, and represents a reasonable and educationally solid alternative to for-profit cyber charter schools that are exploiting the existing funding formula. A reasonable solution would be to permit local school districts to run their own cyber charters under local control, allow students from those districts to choose between local schools, local cyber school or a blend, and cap existing for-profit cyber charters so that local districts can keep some of their badly-needed resources in the community.**

## Certification of Teachers in Charter Schools



Certification and evaluation of charter school teachers continues to be of high concern to school leaders. Unlike requirements for school districts, current law requires that only seventy-five percent (75 percent) of charter school teaching professionals hold appropriate state certification for teaching. Rather, professional employees who do not hold appropriate Pennsylvania certification must present evidence that they have “demonstrated satisfactorily a combination of experience, achievement and qualifications as defined in the charter school application in basic skills, general knowledge, professional knowledge and practice and subject matter knowledge in the subject area where an individual will teach.”

It is difficult to ascertain why the creators of the Pennsylvania Charter School Law would authorize charter school organizers to determine if an individual’s background and experience is “equal to” a professional teaching certificate issued by the Pennsylvania Department of Education. The School Code does not allow public school boards that staffing flexibility, as the certification requirements in the code are based on sound educational evidence and practice. In fact, because state policymakers and education experts on both the state and federal level have recognized the importance of a well-educated and certified teaching force, Pennsylvania has significantly expanded requirements for certification over the last 15 years.

Teacher preparation programs are specifically designed to equip individuals with the skills and knowledge needed to serve as professionals in specific teaching subject areas similar to other degree programs that prepare individuals for a variety of skilled professions that require specific content and skill knowledge. Colleges and universities that offer teacher preparation programs must meet curriculum and course regulations as required by the Pennsylvania Department of Education and state statute to ensure that individuals completing teacher preparation programs have met specific standards of competency in content and pedagogy to serve as a professional educator in their certified area. Upon completion of the necessary coursework, individuals must also take a licensing exam (currently the Praxis) and attain a proficient score to be certified to teach or serve as an administrator in a traditional public school system. This certification process assures that qualified and competent individuals are properly qualified and credentialed to work as professional educators in our public schools, with the goal of increasing student achievement. And this process is one which policymakers, researchers and lawmakers have expressly supported as the best way to ensure higher levels of student achievement.

**Solution: The current charter school law does not require any consistent review of standards or a comparable process to the one required for professional educators in traditional public schools regarding certification and employment for up to 25 percent of charter school entity professional employees. Just as this would not be acceptable for traditional public schools, it should not be allowed for charter schools. All students in Pennsylvania deserve to have properly certified teachers in the schools they attend. It is critical that the charter school law be amended to ensure that every individual employed as a teacher in a charter school be certified through the same rigorous process used for certification of traditional public school educators.**

## Teacher Evaluation in Charter Schools

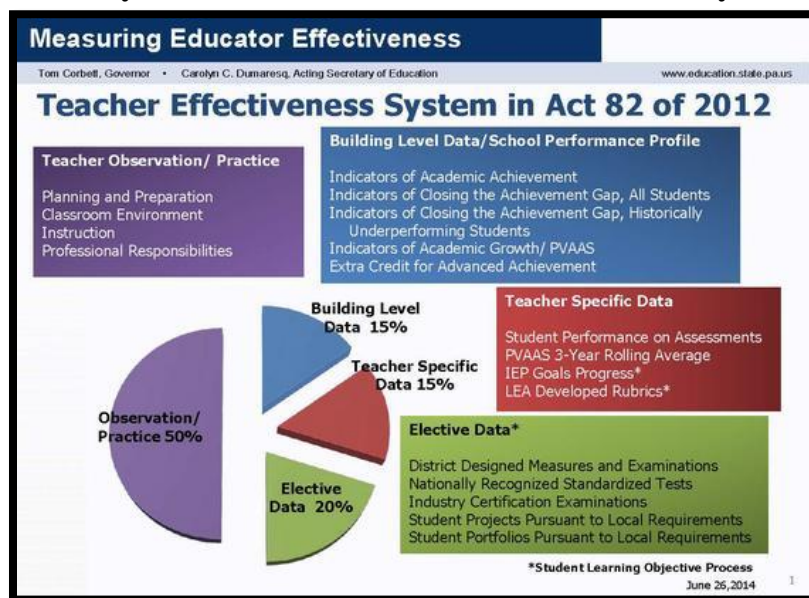
An evaluation system is an important component of professional development for educators and provides both educator and school accountability for professional performance. Effective professional organizations in the public and private sector implement personnel evaluations on a regular basis as a tool for performance feedback to the employee for growth, improvement, and, when necessary, termination. Performance evaluation systems provide accountability and effectiveness to an organization. Yet, charter schools are not required by statute or regulation to conduct evaluations of their professional employees.

Traditional public schools must use an intricate evaluation system for its professional employees as directed by law in Section 1123 of the Pennsylvania Public School Code of 1949, as amended (24 P.S. §11-1123) and supporting regulations (22 Pa. Code Chapter 19). The system requires mandatory classroom observations of teachers to evaluate the practice of planning and preparation, classroom environment, instruction and professional responsibilities. Additionally, school-wide performance data from the PA School Performance Profile and district-specific data on student performance is factored into the evaluation instrument to arrive at a comprehensive evaluation score for each teacher. The teacher-specific data involves the design, implementation, and evaluation of Student Learning Objective Measures that specifically monitor and evaluate achievement data from classroom instruction episodes.

Remarkably, there is no defined evaluation system for charter school teachers. Each charter school entity is able to create its own evaluation system or may choose not to evaluate its teachers.

**Solution:** Although there are issues with the current professional educator evaluation system for public school professional employees, the system requires an annual process of evaluation grounded in effective educational literature and research. All professional teaching employees should be subject to the same evaluation system in the Commonwealth. Since charter schools are considered “public schools” in Pennsylvania, charter school professional employees should be subject to the same evaluation system used for teachers and administrators in public school districts.

### Pennsylvania Public School Teacher Evaluation System



Source: Pennsylvania Department of Education

## **Evaluation of Charter Schools**

“Charter schools are accountable to their sponsor, usually a state or local school board, to produce positive academic results and adhere to the charter contract” (US Charter Schools, 2002). The basic concept of charter schools is that they are allowed to operate with autonomy in return for this accountability. They are accountable for both academic results and fiscal practices to the sponsor that grants them, the parents who choose them, and the public that funds them.

Along with calls for stronger educational accountability generally, the advent of and growth in charter schools has encouraged traditional public schools to higher levels of managerial and educational accountability. John Ericson (2001) from RPP International of Emeryville, California, in a study for the U.S. Department of Education confirming the “rippling effect” theory for charters, showed that more than half of the school districts became more customer-service oriented, increasing the frequency of communications with parents as a result of competition with charters (Ericson, 2001). Also, Paul Teske (2000) in a study for State University of New York Stony Brook found “widespread” evidence that school officials responded to charters especially where superintendents were already pre-disposed toward reform.

Pennsylvania’s public schools have always recognized the need to continually re-tool the way they provide education and meet the needs of their students. While the advent of charter schools may have spurred increasing efforts to expand and enhance educational programs, school district leaders have always utilized research and “best practices” to spur student and district growth. And school leaders in Pennsylvania have not been and are not opposed to accountability that offers a clear and complete picture of how our schools balance requirements with resources.

The history of charter schools nationally indicates that accountability for results has not always been in evidence. While most charter school leaders understand they must maintain relationships of trust and confidence with government authorizers, parents, teachers and donors, building these external accountability relationships and reconciling the needs of different parties was a major challenge that virtually all charter schools struggled to meet (Evans, 2001). Charter schools that survived more than one or two years showed signs of developing this capacity. They did so not by complying with all different groups, but by making and keeping promises about what students experienced in school and what they learned. Evans (2001) states, “Thus charter schools establish internal accountability—a belief that the school’s performance depends on all adults working in concert, leading to shared expectations about how the school will operate, what it will provide children, and who is responsible for what”.

As the results of academic progress of students attending charter schools across the nation began to emerge over time, the effectiveness of charter schools has come into question. There has been significant concern in regard to charter school performance in Pennsylvania, especially in cyber charter schools. In 2011, Stanford University’s Center for Research and Educational Outcomes (CREDO) conducted a study of the academic performance of charter schools in Pennsylvania (CREDO, 2011), comparing the achievement data of charter and traditional public schools from 2010-2013. In reading, 30 percent of charter schools performed significantly better than traditional public schools, while 25 percent performed significantly better in math. However, 39 percent of charter schools performed at significantly lower levels than traditional public schools in reading and 46 percent performed worse in math. Overall, there was a negative achievement impact for students attending charter schools in comparison to traditional public schools.

CREDO also produced a report in 2013 that showed academic performance results for students attending charter schools across the nation (CREDO, 2013). This report indicated that students attending charter schools in Pennsylvania lost the equivalent of 29 instructional days in reading and 50 instructional days in

math in comparison to their public school peers, which ranks Pennsylvania 26<sup>th</sup> in performance among the 27 states evaluated in the study. Only the state of Nevada had a lower performance record. Again, much of this abysmal performance is a result of cyber charter school results.

CREDO conducted a deeper study into cyber charter schools in 2015 and found that cyber charter students lose the equivalent of 72 days of learning per year in reading and an alarming 180 days of learning in math in comparison to their public school peers. In Pennsylvania, the instructional losses are 100 days per year in reading and 172 days in math (CREDO, 2015). These results should serve as a wakeup call to policy makers as many students are being irreparably harmed in their educational attainment by attending cyber charter schools.

The National Education Policy Center at the University of Colorado Boulder, issued a report on Virtual Schools in the U.S. in 2017 (Molnar, et al., 2017) that found academic performance of cyber charter schools so dismal that it offered the following recommendation: *“Policymakers should slow or stop the growth in the number of virtual schools and the size of their enrollments until the reasons for their relatively poor performance have been identified and addressed. They should prioritize understanding why virtual schools perform poorly under a college-and career-ready accountability system and how their performance can be improved prior to expansion.”*

**Solution: Charter schools must be as transparent to the public as traditional public school districts and conform to all public school financial reporting procedures as required by law. Furthermore, charter school financial records must be accessible on-line for the general public to review in the same manner as public school districts. Taxpayers deserve to know how public dollars are being spent in these schools. Parents must have the opportunity to compare and evaluate the academic performance of all charter schools with schools in their local district to make a well-informed decision about where to send their child to school. The dismal academic performance of students attending cyber charter schools is especially troubling and needs the attention of policymakers and monitoring agencies. This will only be accomplished if there is one system of evaluation for all school systems in Pennsylvania.**

#### School Performance Profile Scores for PA Cyber Charter Schools 2013-2016

A score of 70 is considered passing. Not one Cyber Charter School scored 70 or better over the four year period.

Cyber Charter School	2013	2014	2015	2016
21st Century	66.5	66.0	69.2	62.2
Achievement House	39.7	37.5	44.8	54.5
ACT Academy	30.6	28.9	36.1	40.7
Agora	48.3	42.4	46.4	37.6
ASPIRA Bilingual	29.0	39.0	38.4	41.9
Central PA Digital Learning Fdn	31.7	48.8	39.3	46.7
Commonwealth Connections Academy	54.6	52.2	48.8	47.5
Education Plus Academy	59.0	50.0		67.9
Esperanza Cyber	32.7	47.7	31.7	50.7
PA Cyber	59.4	55.5	65.3	51.0
PA Distance Learning	54.7	50.9	49.2	53.9
PA Leadership	64.7	59.3	54.7	57.5
PA Virtual	67.9	63.4	64.6	49.7
Solomon	36.9			
Susq-Cyber	46.4	42.4	45.5	49.3

Source: Pennsylvania Department of Education

## Approval, Renewal, and Appeal Process for Charter Schools

A charter school may be established in several ways: by an individual; one or more teachers who will teach at the proposed charter school; parents or guardians of students who will enroll in the charter school; a nonsectarian college, university or museum located in the Commonwealth; a nonsectarian, nonprofit corporation; a corporation, association or partnership; or any combination of the above. Because local school boards and the PA Department of Education are independently granted authority to review and act upon charter school applications, applicants must carefully review the definitions of a charter school and cyber charter school in the Charter School Law and the proposed model to determine the appropriate charter authority for submission of a charter school application.

For renewals, a charter school or cyber charter school must notify, in writing, the chartering school district, or the PA Department of Education in the case of cyber charter schools, between July 1 and October 1 of the final year of its current charter, that it is requesting renewal of the charter. Charter schools must determine whether the local school board to whom the renewal application is being submitted has its own renewal application or whether the charter school should use PDE's Charter Renewal Application. A cyber charter schools must use PDE's Renewal Application to apply for the renewal of its charter.

When a school district rejects an application or renewal for a charter school, the Charter School Appeal Board (CAB) may be activated. The CAB consists of the Secretary of Education and six members who are appointed by the Governor and with the consent of a majority of all the Senate members. Currently, the members include a parent of a school-aged child, a school board member, a certified teacher actively employed in a public school, a faculty member or administrative employee of a higher education institution, a member of the business community, and a member of the State Board of Education.

If charter application or renewal is denied by a school district, the charter school entity can secure signatures to appeal the denial within 60 days of the date of the denial notice and present the petition to the Court of Common Pleas. The court decree and petition are then forwarded to the CAB. If permitted by the court decree, the applicant files a petition to appeal with the CAB, stating the reasons for disagreeing with the school board's denial of the application. The CAB receives the appeal, provides written notice of receiving the appeal, assigns a docket number, and assigns a hearing officer if appropriate, and requests that the school district provide the certified record to the board within 10 days.

The hearing officer holds a prehearing conference with counsel for the district and the charter applicant. During the conference, the hearing officer determines whether a hearing is needed on any evidentiary issues, determines whether supplemental documents are to be offered for CAB's consideration, sets a schedule for the filing of briefs and sets the date for presentation of the case to CAB. This process can be an exhausting and expensive experience for school districts, as they must secure legal counsel to represent the district during the CAB process after going through an extensive hearing process at the school district level.

**Solution: Many districts have spent considerable time considering an initial charter application or renewal application. If the school district decides to deny the original application of the appeal, they want to be assured that the appeal process is fair and objective. The membership of the CAB needs to consist of neutral individuals who will remain objective and unbiased in the appeal hearing process. The current appointment of members to the CAB is made by the Governor with the consent of the entire Senate. CAB members must be selected in a bipartisan manner to ensure that the CAB is as nonpartisan as possible and the process is fair and equitable for both parties.**

## **Resolution of Billing Discrepancies between School Districts and Charter Schools**

The School Code requires school districts to make 12 equal, monthly payments to charter schools by the fifth day of each month within the operating school year. A student enrolled in a charter school must be included in the average daily membership of the student's district of residence for the purpose of providing basic education funding payments and special education funding pursuant to Article XXV. If a school district fails to make a payment to a charter school, the Secretary of Education is required to deduct the estimated amount owed to the charter school entity, as documented by the charter school, from any and all state payments made to the district after receipt of documentation from the charter school.

Within 30 days after the Secretary makes the deduction from state payments, a school district may notify the Secretary that the deduction made from state payments to the district under this subsection is inaccurate. The Secretary then must provide the school district with an opportunity to be heard concerning whether the charter school documented that its students were enrolled in the charter school, the period of time during which each student was enrolled, the school district of residence of each student and whether the amounts deducted from the school district were accurate.

This process clearly favors charter schools and places a tremendous burden of proof and expense on the school district to appeal a billing discrepancy.

**Solution: No deductions to school districts from state payments should be made until the appeal process is completed. The judicial system does not provide a financial award to one party based on the submission of a claim. In American jurisprudence, each party should have full access to the complete due process procedure before a decision is made and award granted. School districts should not have funds withheld while they appeal the charter school entity claim.**

## **Transparency**

One of the greatest challenges to the claim that charter schools are public schools is that of transparency, especially in governance and management. Website after website operated by charters fail to disclose minimal levels of transparency. Questions on management, finance and educational practice abound, but most charter schools fail a basic level of transparency. Those issues include who owns the building(s), who makes the decisions, how students and teachers are treated, what gets reported about the schools, and who the schools serve. (For an example of the latter, a recent review of Philadelphia's robust charter market shows that the vast majority of the charter schools serve a wealthier and whiter clientele than do the public schools.) All of these are questions that parents attempting to make an informed decision should be able to quickly and easily review. In many cases in Pennsylvania, charter schools don't even respond to Freedom of Information requests or Right-to-Know requests (PSBA, 2016).

Calling charter schools "public schools" because they receive public funds is technically accurate but can be misleading to the general public. In some instances, charter schools keep and or attract the students they want, and can make it difficult for students who are hard-to-educate to enroll or stay enrolled. When Philadelphia officials examined 25 charter schools in 2012, they found 18 imposed "significant barriers," including a requirement from one school that students produce a character reference from a religious or community leader (Reuters, 2013).



The board of school directors of public schools come under review every two years at election time, while the boards of directors of charter schools are often related personally or professionally to the founders of the school. Without adequate transparency, it is difficult to know how elections are conducted, and often charter boards are self-selected. In fact, with little oversight or direction, depending on the charter, the founder or executive director can often appoint his or her own boards or majorities on those boards. Those decisions rarely (if ever) involve the public, and board meetings, if posted and public, are not subject to the same levels of Sunshine Law scrutiny of public school districts.

**Solution:** The solution to these problems are to have requirements for accountability on the website and subject to an independent audit, such as one conducted by the state Auditor General. These audits should include a variety of components:

- when board meetings are held;
- how to get involved;
- how to become a board member;
- stringent anti-nepotism requirements for both management and employment to ensure that family members are not employed in supervisory and beneficial positions, as is too often the case, or risk forfeiture of their permission to operate;
- a breakdown of the students served;
- admission policies and practices;
- publicly held and audited lotteries for admissions (under supervision of the local school authority); and
- clear and timely reporting of financials to both the state and the local education agency.

All taxpayers and families contemplating an educational change benefit from a basic report card consisting of these basic elements of school success.

## **Enrollment and Selection Process**

This particularly egregious problem is reinforcing racial and class divisions on the taxpayer's dollar. For generations, public schools have been tasked with and have responded to the challenge of educating every youngster under their roof, no matter their need, background or characteristics. Public schools take **all** students, despite the struggle to educate them with limited resources compounded by numerous and onerous unfunded mandates.

However, although charter schools utilize public funds, they do not serve the same demographics of students as traditional public schools. A study by Penn State Professor Bruce Frankenberg and others (Frankenberg, et al. 2017) found that students who leave traditional public schools for brick-and-mortar charter schools typically choose more highly segregated schools by race.

In numerous instances, charter schools use practices that drive away students, including admissions and placement tests to discourage struggling students from entering. Once accepted, zero tolerance and "no excuse" discipline strategies drive away students by repeatedly suspending those who are hard-to-educate. Many public school principals can share stories of admitting former charter students who turn up on the doorstep with the story that they were given the choice of being expelled or enrolling in the traditional public school.

**Solution:** The solution to this problem is daunting. There is absolutely a place for charters in the landscape of education, but it is vital to realize that school choice is not like changing socks. Informed decision-making in selecting a school is extremely complicated, and is a decision made more complicated by a wide variety of factors, including parental educational attainment, socio-economic status, public transportation and the marketing that many charters use to fuel their enrollment projections (again, using public tax dollars).

In order to provide the greatest level of transparency possible for making those decisions and providing accountability to the public, the state must develop a reasonable and effective score card for public schools and charters that moves beyond the high-stakes testing mantra we are currently using. This score card must reflect demographics of students and teachers, reflective of lotteries for admissions, which must be fair and open to public inspection. Waiting lists must be subject to inspection and audit, and action plans for increasing racial and social diversity must be developed and part of the renewal process, which should remain at no more than five-years. A ten-year renewal process that is currently being proposed by the legislature only reinforces a substandard education for many more years. The lives of our students are too important to fritter away in years of dithering over the equity and quality of a system that is currently reinforcing racial, ethnic and social divides.

## **Conclusion**

Charter schools have been part of the Pennsylvania educational landscape for twenty years with a checkered record of academic performance and fiscal accountability. PASA only supports the establishment of charter schools when they provide effective educational opportunities for children at a reasonable cost and are governed by a process that is accountable to the public.

The recommendations of this white paper can be used by policymakers to reform and improve charter school law in Pennsylvania that will serve children and families in making important decisions about public school choice options. The recommendations also will provide the tax-paying public with the oversight and transparency needed to ensure charter schools, as well as public school districts, are accountable to the communities they serve.

Policymakers are encouraged to contact PASA to discuss these recommendations and explore opportunities to collaborate in an effort to improve charter school law in the Commonwealth.

**Pennsylvania Association of School Administrators**

**Dr. Mark DiRocco, Executive Director**

**PHONE: 717-550-4448      FAX: 717-540-4405**

**Email: [mdirocco@pasa-net.org](mailto:mdirocco@pasa-net.org)**

**Website: [www.pasa-net.org](http://www.pasa-net.org)**

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## APPENDIX A

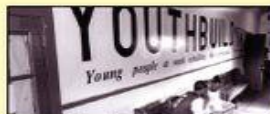
# A brief history of charters

- 1974** • Ray Budde, a Massachusetts education professor, published a paper advocating giving innovative teachers contracts, or "charters," to try out new instructional approaches in their schools.
- 1988** • Former American Federation of Teachers President Albert Shanker suggested in a speech that small groups of teachers and parents be allowed to submit proposals for schools to a local panel. Once given a "charter," the school would then be left alone for five or 10 years.
- 1991** • Minnesota passed legislation that permits charter schools to operate in the state. The nation's first charter school, City Academy, opened in 1992 in St. Paul, Minn.
- 1996** • Nearly 800 charter schools existed across 25 states.
- 1997** • The Pennsylvania Charter School Law, known as Act 22, passed. The bill outlined the rules and regulations charters must follow. Among other requirements, at least 75 percent of teachers had to be certified, and charters could not discriminate in admissions.
- The first four charters in Philadelphia opened in the fall: Harambee Institute of Science and Technology, Community Academy of Philadelphia, World Communications, and YouthBuild Philadelphia.
- Teachers at Philadelphia's West Oak Lane Charter School became the first in the state to unionize.
- 1999** • Western Pennsylvania Cyber Charter, the state's first online charter school, opened.
- 2000** • The first batch of charter renewals came before Philadelphia's school board and all were renewed.
- 2001** • The School Reform Commission, as part of an extensive privatization plan, converted Belmont Elementary into a charter school, but it continued to serve the same catchment area. Three other schools were named as "transitional charters" but ultimately remained in the District.
- 2002** • The Center for Economics and Law became the first charter to close in Philadelphia, due to management issues. A former principal was later indicted on six counts of wire fraud, charged with inflating enrollment numbers in order to receive extra public funding.
- 2003** • A pilot study on charters by the National Assessment of Educational Progress ("The Nation's Report Card") found that for 4th graders from the same ethnic backgrounds, reading and math performance in charter schools did not differ from that in other public schools.
- The Greater Philadelphia Urban Affairs Coalition published a white paper on charter high schools, calling for the creation of more. It found that the city's charter high schools had similar demographics to District neighborhood high schools but significantly better attendance and lower dropout rates.
- 2004** • District CEO Paul Vallas contracted with Mastery Charter School to renovate and convert Thomas Middle School in South Philadelphia into a charter that continued to function with neighborhood boundaries. Mastery would later take over Shoemaker and Pickett middle schools.
- 2005** • *Philadelphia Inquirer* reporter Martha Woodall began extensive reporting on financial improprieties in charter schools after following up with parents who complained to the School Reform Commission about their concerns regarding Philadelphia Academy Charter School.
- 2008** • Brien Gardiner, founder of Philadelphia Academy, pleaded guilty to charges of fraud and later committed suicide. Kevin O'Shea, the charter school's CEO, was later given a 37-month sentence for mail fraud, taking school funds for personal use, and filing a false tax return.
- Dorothy June Brown, former CEO of Laboratory and Ad Prima Charters and founder of Agora Cyber Charter, was investigated after the *Inquirer* reported she was collecting excessive salaries from multiple charters. New state legislation prohibited administrators from collecting salaries from more than one school.
- The School Reform Commission denied the renewal of Germantown Settlement Charter, citing financial mismanagement and poor academics, following a federal investigation. Renaissance Charter School was denied renewal for low achievement.
- An evaluation by Research for Action and RAND found that Philadelphia charter students' achievement gains are about the same as those of their District counterparts overall. Results were more positive for charter high schools than for charter elementary schools.
- 2009** • The Center for Research on Education Outcomes (CREDO) at Stanford University compared academic progress of charter students nationally with demographically matched students in nearby public schools. The study said 17 percent of charter schools performed better than matched public schools, 37 percent did worse, and 46 percent were the same.
- 2010** • Harambee Institute of Science and Technology came under fire for operating an after-hours nightclub out of the school's cafeteria, utilizing an expired liquor license. The "banquet facility" was permanently shut down in March.
- Philadelphia City Controller Alan Butkovitz found questionable financial practices at 13 Philadelphia charter schools, deriding the District for poor charter oversight.
- An ongoing federal investigation of 18 Philadelphia charter schools, including those in Butkovitz's report, is said to be the largest federal probe of its kind.
- The District approved a plan to turn over seven "Renaissance Schools" to four different charter operators.
- Of the 5,250 charter schools to open nationally since 1991, 657 have closed, most due to financial issues. In Pennsylvania, there are nearly 60,000 students attending 144 charter schools — 67 of those within Philadelphia. Twelve Pennsylvania charter schools have closed since 1997, when the Pennsylvania charter school law passed.

— compiled by Michelle Welk



Albert Shanker



YouthBuild Charter



West Oak Lane Charter



GPUAC White Paper



Mastery Charter-Pickett



School Reform Commission, 2008



City Controller Alan Butkovitz