

# THE SCHOOL DISTRICT OF PHILADELPHIA BOARD OF EDUCATION

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## THE SCHOOL DISTRICT OF PHILADELPHIA'S COMMENTS ON PROPOSED REGULATIONS

### TITLE 22. EDUCATION, PART XX. CHARTER SCHOOLS

#### CHAPTER 713. CHARTER SCHOOLS AND CYBER CHARTER SCHOOLS

As general comments, the proposed regulations provide greater clarity and transparency for authorizers, brick and mortar charter schools and cyber charter schools in navigating the requirements of the Charter School Law. The School District would find it beneficial if the regulations more frequently cross-referenced specific provisions in the Charter School Law and the Pennsylvania Code where applicable. Additionally, the School District notes that the regulations could be expanded to include provisions related to the charter renewal process.

The School District has the following comments about specific provisions of the proposed regulations and strongly recommends the Department address these comments and provide clarification where necessary before promulgating final regulations.

#### APPLICATION REQUIREMENTS

##### **713.2 – Contents of Application**

The School District agrees with the provisions in the regulations which enable authorizers to issue authorizer-specific new charter application forms and request information in addition to that set forth in the regulations in order to address authorizer-specific requirements. It is valuable that the proposed regulations recognize that brick and mortar charter applicants apply to open new charter schools in specific facilities in particular communities in a school district.

The proposed regulations concerning the Contents of Applications could be strengthened:

- The regulations should acknowledge that in accordance with the CSL, a charter school needs to have the words “charter school” in the entity’s name.
- The applicant should propose total enrollment by year of operation and at scale, in addition to each grade level or age level to be served.
- In connection with the proposed governance structure of the proposed charter school:
  - In relation to the educational management service provider (“EMSP”), more clarity is needed to be submitted by the applicant about the organizational structure of the EMSP in order to determine what law or standard of conflict of interest would apply and whether conflicts of interest would exist.
  - In determining the fees charged to the charter school by the EMSP, frequently fees are based on non-federal funding received by the charter school rather than on charter school expenditures. The regulations should reflect this possibility.
  - There are references to “affiliated business entities” but the regulations are not clear on the types of entities this would include nor the nature of an affiliation.
- In connection with the mission and educational goals of the proposed charter school:
  - The regulations should articulate the means by which the applicant needs to evidence demonstrated, sustainable support for charter school, such as intent to enroll forms, letters of support, MOUs with community organizations, etc.

- In connection with the Curriculum, there should be references to the curriculum and academic standards in the current Chapter 4 regulations.
- The regulations should reference Chapter 12 requirements related to procedures regarding the suspension or expulsion of students.
- In connection with the physical facility for the proposed charter school:
  - The regulations should require submission of a signed letter of intent, proposed agreement of sale or proposed lease to provide actual proposed costs for budgeting purposes.
  - The submission of information detailing square footage for each space in the facility and description of how space will be used may be more detail than would be available to the applicant at the time of submission of the application.
- The regulations should include provisions which require applicants to provide evidence about the performance of existing schools for applicants which have operated charter schools in the past or which are currently operating charter schools.
- The regulations should include a mandate that incomplete applications need not be reviewed by the school district.

## ENROLLMENT

### **Section 713.4 – Random Selection Policies for a Charter School or Regional Charter School**

The School District supports the need for regulations requiring the adoption of clear admissions policies which are made publicly available. The School District notes that the section on Random Selection Policies could be strengthened:

- The regulations should provide the definition or description of the term “random basis” in relation to the term “lottery”.
- The regulations do not address waitlists and procedures related to waitlists.

## BOARDS OF TRUSTEES

### **Section 713.6 – Requirements for Boards of Trustees**

The School District supports the clear requirements for boards of trustees in the proposed regulations. The provisions could be strengthened as follows:

- The regulations should require that at least one parent representative to serve on each charter school board of trustees.
- The regulations should require that boards of trustees meet at least 8 times in a calendar year and provide on the publicly available website:
  - A list of board members and contact information
  - All meeting dates and committee meeting dates
  - Publicly accessible meeting locations
  - Minutes from all meetings inclusive of all votes taken at a meeting, within 30 days after adoption at a public meeting

## FISCAL AND AUDITING STANDARDS

### **Section 713.7 – Fiscal Management and Audit Requirements**

The School District is concerned about the proposed regulations which state that a charter school may satisfy the

requirement under section 1729-A to adhere to generally accepted standards of fiscal management and audit requirements merely by issuing financial statements prepared in accordance with generally accepted accounting principles (GAAP) and obtaining independent financial audit that follows Generally Accepted Government Auditing Standards (GAGAS) and Generally Accepted Auditing Standards (GAAS). The School District supports the provisions in the regulations requiring all audits to satisfy certain requirements. However, there are no standards as to any findings to determine if a finding is material. These regulations appear to indicate that a charter school could have material audit findings and still be found to have adhered to generally accepted standards of fiscal management and audit requirements.

Additionally, the preparation of financial statements and obtaining audits are not the only requirements for meeting generally accepted standards of fiscal management and audit requirements. There are certain areas of fiscal management which may not be addressed by auditors in financial audits:

- The regulations do not recognize that a charter school could fail to pay its bills and address other financial obligations or could fail to make PSERS contributions while issuing financial statements and obtaining financial audits.
- The regulations fail to include an analysis of short-term and long-term financial health metrics such as total margin, current margin, average days cash on hand, net position, non-restricted fund balance, debt ratio, and debt service coverage ratio.
- The regulations should include a requirement that charter schools adopt financial policies, such as internal control policies.

## REDIRECTION PROCESS

### **Section 713.8 – Redirection Process**

The School District supports regulations to clarify the redirection process which currently reflects the current procedures used by the Department. The proposed regulations could be strengthened:

- Submission of payment requests ten days before the 5<sup>th</sup> of the month is not enough time for a school district to review, process and make payments. A school district with many charter schools would need more than ten days to review enrollment records and residency requirements for thousands of students.
- The Department's request form should include the name of the student.
- While the date of the current IEP is needed to determine special education status for charter payment purposes, the date of the prior IEP is not necessary.
- Clarification is needed on the term "tuition rate used by the charter school" and whether this would be based on a filed PDE Form 363.
- The charter school should certify as to the date the request was originally submitted to the district of residence.

## SCHOOL STAFF

### **Section 713.9 – Health Care Benefits**

The School District has some concerns about this section of the proposed regulations. This section of the proposed regulations places a significant, new administrative burden on school districts:

- The provisions in the regulations related to specific minimum benefits may not be applicable to entities employing less than fifty employees, thus this standard may create a burden for very small school districts or small charter schools.
- The Charter School Law does not contemplate charter schools contributing to tax-advantaged accounts for the purchase of health care coverage.

- The regulations do not indicate how school districts would provide very complex health benefits information to charter schools nor the frequency such information would need to be updated.
- The regulations provide that a charter school employee may file a complaint about the comparability of health plan options with the authorizer; however, there are no process or remedy procedures in the regulations. It is not clear what the authorizer would review upon receipt of the complaint. This new process would be very burdensome to school districts.