

**ED, CharterRegs**

From: Karen Schade <kschade@schoollane.org>
Sent: Monday, October 18, 2021 12:33 PM
To: ED, CharterRegs
Subject: [External] Public Comment Regulation 6-349
Attachments: PUBLIC COMMENT 6-349.pdf

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Please see attached public comment to Regulation 6-349.

Thank you

Karen Schade

CEO

School Lane Charter School

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October 18, 2021

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

Via electronic mail: RA-EDCharterReg@pa.gov

To Whom It May Concern:

As a charter school leader at School Lane Charter School for the past 19 years, I have always championed progress in further defining charter school accountability. I agree with many of the proposed rules proposed in 6-349. However, the proposed rules regarding Health Care Benefits go beyond accountability and more closely regulate conditions of employment that are beyond the scope of regulation by the state.

Updates to the Charter School Law has been commented upon by the legislature, PDE, district administrators, and charter school leaders for many years. I, for one, have championed many changes put forth as improvements and providing clarity. However, I feel the rules proposed under the **Health Care Benefits** are too far reaching and unattainable by the charter schools. Therefore, my comment with regard to the proposed Rules for charter schools will focus on those rules under **Health Care Benefits**.

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

On October 25, 2017, PA State Charter School Appeal Board (CAB) ruled in *Gillingham Charter School v. Pottsville Area School District*, "same health care benefits" is solely a reference to provision of benefits in each of the categories of benefits as described in 42 U.S.C. 18022 (b) and does not relate to equivalent cost sharing structure and plan type. Any other interpretation is nonsensical as charter schools do not have the purchasing power as what typically a much larger chartering district. It appears that this point has been already been taken up by a state agency and vetted.

Having been challenged by our chartering district on this point, SLCS actually went out to our health insurance company and asked to provide a quote on the same medical insurance package as the district. SLCS was told that that is impossible as each "business" is unique in its program and they would not be willing to provide a package that was the same as a negotiated by another business. Meaning, insurance company was not willing to provide the same "rich" program offered by chartering district. There is no guarantee that the

medical insurance providers are willing to provide the same level of benefits programs to charters. Therefore, this rule would be impossible to follow.

In addressing (ii) Is funded by the charter school in an amount not less than the contribution provided by the charter school's authorizer for the most-selected car plan available to the employee of the charter school's authorizer, comments as follow:

The purchase of health care insurance is based upon various variables, such as, age of employees, previous cost incurred by employees, illnesses of employees, and number of employees in the program, that cannot be duplicated between organizations. Charter schools could offer the same coverage and yet not cost the same based on the different variables of the program insured group. This fact makes it impossible for charter schools to fund their health care insurance "in an amount not less than the contributions provided by the charter school's authorizer." The health care insurance set the programs and cost. Asking charter schools to spend the same or greater dollar amount on health care insurance seems implausible when the control of the program and cost is outside of their control. Again, making this rule impossible to follow.

In addressing (2) Contribute to a tax-advantaged account which employee may use to pay for the purchase of health care coverage, as permitted by Federal law, in an amount not less than the contribution provided by the charter school's authorizer for the health care plan available to the employee of the charter school authorizer, comments as follows:

I am confused by this proposed rule as health spending accounts (HAS) and flexible spending accounts (FSA), both tax advantage accounts, allow the employee to pay for health care deductibles or other procedures/items not covered by health care insurance. However, for the state to rule that the charter school should expend funds in an amount not less than the contributions provided by the authorizer presumes that the charter school's expense for such a program would be great than the district's which is an assumption the state cannot and should not make. This rule would be improbable to follow by charter schools.

In addressing (c) Charter schools, regional charter schools, or cyber charter schools shall present health care benefit plan enrollment options to employees, including a comparison of what they would have been offered if they were employees of the local school district, at each enrollment period, comments as follows:

Many employees are confused by health care benefit plan enrollment. This rule only will add to the confusion. There is no purpose to a comparison with an employer that did not offer them a position.

I have found that many of my employees are well aware of what health care benefits are being offered at other districts around our school as they made decision regarding where they apply and accept positions. In what other employment space is a school or business expected to provide a competitor's health care benefit comparison to its employees?

These proposed regulations regarding Health Care Benefits only serve to put charter schools in a place to not be able to comply if enacted unless authorizing school districts allow charter school employees to enroll in their health care benefits programs at the expense of the charter school. However, as non-employees of the authorizing school district will health care insurers even allow this to occur? Has anyone done their due diligence with the health care insurance companies to determine how charters will be able to comply?

As for requiring charter schools to fund health care benefits in an amount no less the contribution of the charter school's authorizer, what is the point? I could offer the required "substantially equivalent" health care benefits as the authorizing district and the cost could be less. This rule assumes that cost would be the same or more. With that assumption, should charter schools spend more on employee benefits rather than on direct expenses that effect student achievement. Should charter schools be forced to provide substantially equivalent health care benefits rather than resources for the student needs in the classroom? If a charter school's employees accept a position knowing the salary and benefits, why would the state require this equity of spending? Why are charter schools being singled out by the state who is setting rules on what type of health care benefits we are expected to provide and at what expense? Certainly, if SLCS had more revenue I would pay my teachers more and provide richer benefits. I wish I could as I have had many teachers leave SLCS for better pay and benefits at a district school after we train them and pay for their master's degrees. However, I must manage our revenue verses expenditures so we remain fiscally responsible.

This brings me to my final comment. There is no other tax payer funded employer, state agency, or business sector in which the state is imposing rules on what type of health benefit that must be offered to its employees or financial contribution it must make to such benefits or how much the employer spends on the benefit. It is impossible to craft the same level of health care benefit as another employer. Therefore, making this regulation compliance an impossibility.

The proposed regulations regarding Charter & Cyber Charter School Health Care Benefits are over reaching and unnecessary. I respectfully request that these regulations be removed from Regulation #6-349.

Thank you,
Karen A. Schade, CEO