EDUCATION LAW CENTER
WWW. ELC-PA.ORG

PHILADELPHIA
1800 JFK Blvd., Suite 1900A
Philadelphia, PA 19103
T 215-238-6970
F 215-772-3125

PITTSBURGH
429 Fourth Ave., Suite 702
Pittsburgh, PA 15219
T 412-258-2120
F 412-535-8225

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The Pennsylvania Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

The Pennsylvania Department of Education
Division of Charter Schools
333 Market St, 3rd Floor Harrisburg, PA 17126

Via email

Comments on the proposed final form regulation #6-349 Charter Schools and Cyber Charter Schools

The Education Law Center (ELC) is a non-profit legal advocacy organization that works to ensure access to a quality public education for all students in Pennsylvania, with a particular focus on underserved student populations, including students of color, students living in poverty, students with disabilities, students experiencing homelessness, English learners, students in the foster care and juvenile justice systems, and LGBTQ students. We represent students in both traditional public schools and in charter schools seeking access to services they are entitled to under federal and state law.

ELC reviewed the Pennsylvania Department of Education's draft charter and cyber charter regulations with a particular focus on policies and practices that serve as barriers to student enrollment and retention in the charter schools of their choice. Our work is informed by the experiences of our attorneys who represent students seeking to enroll in or remain in charter schools throughout the commonwealth of Pennsylvania.

Through both our own case examples and data analysis, we have seen clear disparities in access to charter schools for students with disabilities. As a sector, the charter schools underserve students with significant disabilities as compared to the sending district. The proposed regulations are a step towards clarifying that charter schools must equitably serve students with disabilities.

ELC is committed to accountability and transparency in all public schools, including charter schools. The proposed regulations improve board transparency and fiscal and accounting standards to ensure appropriate stewardship of public funds and strengthen charter school financial operations.

There are significant problems with Pennsylvania's charter school law, which prevent the establishment of a high-quality charter sector. Reforms to the underlying charter school law are deeply needed. PDE's proposed regulations will not fix the deficiencies in state law but will clarify ambiguities and support

charter authorizers' efforts to create a high functioning charter sector. The proposed regulations strengthen the application process and help to ensure charter applicants are capable of providing a free appropriate public education (FAPE).

The regulations will also help to root out discriminatory enrollment practices and help to ensure that existing and prospective charters comply with all applicable anti-discrimination laws.

Enacting these regulations will not harm the charter sector but rather could begin to create a better sector, by ensuring applicants can meet the needs of all students.

Although the final regulations are not as strong as needed, they are an improvement over the draft regulations. Specifically:

1. Application process. Section713.2 (7) This section has been changed to require applicants to provide information about suspension and expulsion policies that are consistent with state law and clarifies that, if a student code of conduct has not been developed, the policies that will inform the code of conduct be enumerated in the application.
2. Section 713.2 (11)(ii) clarifies the application section addressing provision of special education services by requiring applicants to describe how the school will provide special education services as required under Chapter 711. This section will help authorizers to determine if a charter applicant has the capability of serving students with disabilities.
3. Random selection policies. Section 713.4 (b) has been modified to clarify that enrollment policies must comply with all applicable state and federal non-discrimination laws and regulations. This is a material improvement. The section could be further strengthened by requiring the student application form to also include anti-discrimination language.
4. Section 714.3 (d) has been revised to require that charter annual reports will include information on student enrollment that is disaggregated by student group. This is an important transparency measure that will allow parents, board members, authorizers, and the public to monitor whether the school provides equitable access to all students.

ELC supports the proposed final regulations and urges their adoption.

Thank you for your consideration.



Deborah Gordon Klehr
Executive Director
(215) 346-6920