

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 991 Session of 2013

INTRODUCED BY DINNIMAN, BOSCOLA, HUGHES, FONTANA, FERLO,
SCHWANK, TEPLITZ, YUDICHAK, SOLOBAY, BROWNE, COSTA, BREWSTER
AND FARNESE, JUNE 5, 2013

REFERRED TO EDUCATION, JUNE 5, 2013

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for definitions,
6 for charter school requirements, for powers of board of
7 trustees, for annual reports and assessments, for provisions
8 applicable to charter schools and for applicability of other
9 provisions of this act and of other acts and regulations.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definitions of "chief executive officer" and
13 "school district of residence" in section 1703-A of the act of
14 March 10, 1949 (P.L.30, No.14), known as the Public School Code
15 of 1949, amended June 29, 2002 (P.L.524, No.88), are amended and
16 the section is amended by adding definitions to read:

17 Section 1703-A. Definitions.--[As used in this article,] The
18 following words and phrases when used in this article shall have
19 the meanings given to them in this section unless the context
20 clearly indicates otherwise:

21 "Administrator" shall include an employe of a charter school

1 or cyber charter school, including the chief executive officer
2 of a charter school or cyber charter school and any other
3 employee who by virtue of the employee's position is responsible
4 for taking or recommending official action of a nonministerial
5 nature with regard to contracting or procurement, administering
6 or monitoring grants or subsidies, managing or regulating staff,
7 student and school activities or any activity where the official
8 action has an economic impact of greater than a de minimis
9 nature on the interests of any person or is an exercise of
10 management or operational oversight in any way.

11 * * *

12 "Charter school foundation" shall mean a nonprofit
13 organization as defined under section 501(C)(3) of the Internal
14 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(C)(3)),
15 that provides funding, resources or otherwise serves to support
16 a charter school or cyber charter school, either directly or
17 through an affiliated entity.

18 "Chief executive officer" shall mean an individual appointed
19 by the board of trustees to oversee and manage the operation of
20 the charter school or cyber charter school, but who shall not be
21 deemed a professional staff member under this article.

22 * * *

23 "Educational management service provider" shall mean a for-
24 profit education management organization, nonprofit charter
25 management organization, school design provider, business
26 manager or any other partner entity with which a board of
27 trustees of a charter school or cyber charter school contracts
28 to provide educational design, business services, comprehensive
29 management or personnel functions or to implement the charter.
30 The term does not include a charter school foundation.

1 "Immediate family member" shall mean a parent, spouse, child,
2 brother or sister.

3 * * *

4 "School district of residence" shall mean the school district
5 in this Commonwealth in which [the parents or guardians of a
6 child reside] a child resides as determined under section 1302.

7 * * *

8 Section 2. Section 1715-A of the act, amended or added June
9 19, 1997 (P.L.225, No.22) and July 9, 2008 (P.L.846, No.61), is
10 amended to read:

11 Section 1715-A. Charter School Requirements.--(a) Charter
12 schools shall be required to comply with the following
13 provisions:

14 (1) Except as otherwise provided in this article, a charter
15 school is exempt from statutory requirements established in this
16 act, from regulations of the State board and the standards of
17 the secretary not specifically applicable to charter schools.
18 Charter schools are not exempt from statutes applicable to
19 public schools other than this act.

20 (2) A charter school shall be accountable to the parents,
21 the public and the Commonwealth, with the delineation of that
22 accountability reflected in the charter. Strategies for
23 meaningful parent and community involvement shall be developed
24 and implemented by each school.

25 (3) A charter school shall not unlawfully discriminate in
26 admissions, hiring or operation.

27 (4) A charter school shall be nonsectarian in all
28 operations.

29 (5) A charter school shall not provide any religious
30 instruction, nor shall it display religious objects and symbols

1 on the premises of the charter school.

2 (6) A charter school shall not advocate unlawful behavior.

3 (7) A charter school shall only be subject to the laws and
4 regulations as provided for in section 1732-A, or as otherwise
5 provided for in this article.

6 (8) A charter school shall participate in the Pennsylvania
7 State Assessment System as provided for in 22 Pa. Code Ch. 5
8 (relating to curriculum), or subsequent regulations promulgated
9 to replace 22 Pa. Code Ch. 5, in the manner in which the school
10 district in which the charter school is located is scheduled to
11 participate.

12 (9) A charter school shall provide a minimum of one hundred
13 eighty (180) days of instruction or nine hundred (900) hours per
14 year of instruction at the elementary level, or nine hundred
15 ninety (990) hours per year of instruction at the secondary
16 level. Nothing in this clause shall preclude the use of computer
17 and satellite linkages for delivering instruction to students.

18 (10) Boards of trustees and contractors of charter schools
19 shall be subject to the following statutory requirements
20 governing construction projects and construction-related work:

21 (i) The following provisions of this act:

22 (A) Sections 751 and 751.1.

23 (B) Sections 756 and 757 insofar as they are consistent with
24 the act of December 20, 1967 (P.L.869, No.385), known as the
25 "Public Works Contractors' Bond Law of 1967."

26 (ii) Section 1 of the act of May 1, 1913 (P.L.155, No.104),
27 entitled "An act regulating the letting of certain contracts for
28 the erection, construction, and alteration of public buildings."

29 (iii) The act of August 11, 1961 (P.L.987, No.442), known as
30 the "Pennsylvania Prevailing Wage Act."

1 (iv) The "Public Works Contractors' Bond Law of 1967."

2 (v) The act of March 3, 1978 (P.L.6, No.3), known as the
3 "Steel Products Procurement Act."

4 (11) Trustees of a charter school shall be public
5 officials[.] for the purposes of 65 Pa.C.S. Ch. 11 (relating to
6 ethics standards and financial disclosure) and shall file a
7 statement of financial interests for the preceding calendar year
8 with the State Ethics Commission and the local board of school
9 directors, or, in the case of a cyber charter school, the
10 department, not later than May 1 of each year that members hold
11 the position and of the year after a member leaves the position.
12 All members of the board of trustees of a charter school shall
13 take the oath of office as required under section 321 before
14 entering upon the duties of their office.

15 [(12) A person who serves as an administrator for a charter
16 school shall not receive compensation from another charter
17 school or from a company that provides management or other
18 services to another charter school. The term "administrator"
19 shall include the chief executive officer of a charter school
20 and all other employes of a charter school who by virtue of
21 their positions exercise management or operational oversight
22 responsibilities. A person who serves as an administrator for a
23 charter school shall be a public official under 65 Pa.C.S. Ch.
24 11 (relating to ethics standards and financial disclosure). A
25 violation of this clause shall constitute a violation of 65
26 Pa.C.S. § 1103(a) (relating to restricted activities), and the
27 violator shall be subject to the penalties imposed under the
28 jurisdiction of the State Ethics Commission.]

29 (b) A person who serves as an administrator for a charter
30 school shall be a public employe for the purposes of 65 Pa.C.S.

1 Ch. 11 and shall file a statement of financial interests for the
2 preceding calendar year with the board of trustees not later
3 than May 1 of each year that the person holds the position and
4 of the year after the person leaves the position.

5 (c) (1) No person who serves as an administrator for a
6 charter school may receive compensation from another charter
7 school, cyber charter school or from an educational management
8 service provider, unless:

9 (i) The administrator has submitted a sworn statement to the
10 charter school board of trustees and the sworn statement details
11 the work for the other entity and includes the projected number
12 of hours, rate of compensation and projected duration.

13 (ii) The board of trustees has reviewed the sworn statement
14 under subparagraph (i) and agreed by resolution to grant
15 permission to the administrator.

16 (2) A copy of the sworn statement under clause (1)(i) and
17 the resolution by the board of trustees granting the permission
18 shall be kept on file with the charter school and the board of
19 local school directors.

20 (3) No administrator of a charter school or immediate family
21 member may serve as a voting member of the board of trustees of
22 that person's charter school.

23 (4) (i) No administrator of a charter school may
24 participate in the selection, award or administration of a
25 contract if the person has a conflict of interest as that term
26 is defined in 65 Pa.C.S. § 1102 (relating to definitions).

27 (ii) An administrator who knowingly violates this clause
28 commits a violation of 65 Pa.C.S. § 1103(a) (relating to
29 restricted activities) and shall be subject to the penalties
30 imposed under the jurisdiction of the State Ethics Commission.

1 (iii) Any contract made in violation of this clause shall be
2 voidable by the board of trustees of the charter school.

3 (5) An administrator shall be immediately dismissed upon
4 conviction for an offense graded as a felony, an infamous crime,
5 an offense pertaining to fraud, theft or mismanagement of public
6 funds or any crime involving moral turpitude.

7 Section 3. Sections 1716-A(c) and 1728-A(a) of the act,
8 added June 19, 1997 (P.L.225, No.22), are amended and the
9 sections are amended by adding subsections to read:

10 Section 1716-A. Powers of Board of Trustees.--* * *

11 (b.1) (1) For a charter school chartered after the
12 effective date of this subsection, an individual shall be
13 prohibited from serving as a voting member of the board of
14 trustees of the charter school if the individual or an immediate
15 family member receives compensation from or is employed by or is
16 a board member of the local board of school directors who
17 participated in the initial review, approval, oversight,
18 evaluation or renewal process of the charter school chartered by
19 that board.

20 (2) An employe of the school district that chartered the
21 charter school may serve as a member of the board of trustees
22 without voting privileges.

23 (b.2) (1) No member of the board of trustees of a charter
24 school may participate in the selection, award or administration
25 of any contract if the member has a conflict of interest as that
26 term is defined in 65 Pa.C.S. § 1102 (relating to definitions).

27 (2) Any member of the board of trustees who in the discharge
28 of the person's official duties would be required to vote on a
29 matter that would result in a conflict of interest shall abstain
30 from voting and follow the procedures required under 65 Pa.C.S.

1 § 1103(j) (relating to restricted activities).

2 (3) A member of the board of trustees who knowingly violates
3 this subsection commits a violation of 65 Pa.C.S. § 1103(a) and
4 shall be subject to the penalties imposed under the jurisdiction
5 of the State Ethics Commission.

6 (4) A contract made in violation of this subsection shall be
7 voidable by a court of competent jurisdiction, if the suit is
8 commenced within 90 days of the making of the contract.

9 (b.3) A member of the board of trustees of a charter school
10 shall be automatically disqualified and immediately removed from
11 the board upon conviction for an offense graded as a felony, an
12 infamous crime, an offense pertaining to fraud, theft or
13 mismanagement of public funds, any offense pertaining to his
14 official capacity as a board member or any crime involving moral
15 turpitude.

16 (c) The board of trustees shall comply with [the act of July
17 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."] 65
18 Pa.C.S. Ch. 7 (relating to open meetings).

19 Section 1728-A. Annual Reports and Assessments.--(a) (1)
20 The local board of school directors shall annually assess
21 whether each charter school is meeting the goals of its charter
22 and shall conduct a comprehensive review prior to granting a
23 five (5) year renewal of the charter. The local board of school
24 directors shall have ongoing access to the records and
25 facilities of the charter school to ensure that the charter
26 school is in compliance with its charter and this act and that
27 requirements for testing, civil rights and student health and
28 safety are being met.

29 (2) Ongoing access to a charter school's records shall mean
30 that the local board of school directors shall have access to

1 records such as financial reports and financial audits.

2 * * *

3 (d) A charter school shall form an independent audit
4 committee of its board members which shall review at the close
5 of each fiscal year a complete certified audit of the operations
6 of the charter school. The audit shall be conducted by a
7 qualified independent certified public accountant. The audit
8 shall be conducted under generally accepted audit standards of
9 the Governmental Accounting Standards Board and shall include
10 the following:

11 (1) An enrollment test to verify the accuracy of student
12 enrollment and reporting to the Commonwealth.

13 (2) Full review of expense reimbursements for board members
14 and administrators, including sampling of all reimbursements.

15 (3) Review of internal controls, including review of
16 receipts and disbursements.

17 (4) Review of annual Federal and State tax filings,
18 including the Internal Revenue Service Code Form 990, return of
19 organization exempt from income tax and all related schedules
20 and appendices for the charter school and charter school
21 foundation, if applicable.

22 (5) Review of the financial statements of any charter school
23 foundation that shall be included in the independent audit.

24 (6) Review the selection and acceptance process of all
25 contracts publicly bid pursuant to section 751.

26 (7) Review of all board policies and procedures with regard
27 to internal controls, code of ethics, conflicts of interest,
28 whistleblower protections, complaints from parents or the
29 public, compliance with 65 Pa.C.S. Ch. 7 (relating to open
30 meetings), compliance with the act of February 14, 2008 (P.L.6,

1 No.3), known as the Right-to-Know Law, finances, budgeting,
2 audits, public bidding and bonding.

3 (e) The certified audit under subsection (d) and the annual
4 budget under subsection (g) are public documents and shall be
5 made available on the school district's publicly accessible
6 Internet website and the charter school's publicly accessible
7 Internet website, if applicable.

8 (f) A charter school may be subject to an annual audit by
9 the Auditor General, in addition to any other audits required by
10 Federal law or this article.

11 (g) A charter school shall annually provide the school
12 district and the department with a copy of the annual budget for
13 the operation of the school that identifies the following:

14 (1) The source of funding for all expenditures as part of
15 its reporting under subsection (a).

16 (2) Where funding is provided by a charter school
17 foundation, the amount of funds and a description of the use of
18 the funds.

19 (3) The salaries of all administrators of the charter
20 school.

21 (h) (1) Notwithstanding any other provision of law, the
22 charter school and any affiliated charter school foundations
23 shall make copies of its annual Federal and State tax filings
24 available upon request and on the foundation's or school's
25 publicly accessible Internet website, if applicable, including
26 Internal Revenue Service Code Form 990, return of organization
27 exempt from income tax and all related schedules and appendices.

28 (2) The charter school foundation shall also make copies of
29 its annual budget available upon request and on the foundation's
30 or the school's publicly accessible Internet website within

1 thirty (30) days of the close of the foundation's fiscal year.

2 (3) The annual budget shall include the salaries of all
3 employees of the charter school foundation.

4 Section 4. Section 1732-A(a) of the act, amended June 29,
5 2002 (P.L.524, No.88), is amended to read:

6 Section 1732-A. Provisions Applicable to Charter Schools.--

7 (a) Charter schools shall be subject to the following:

8 Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443,
9 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753,
10 [755,] 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1301,
11 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A,
12 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Article XIII-A
13 and Article XIV.

14 Act of July 17, 1961 (P.L.776, No.341), known as the
15 "Pennsylvania Fair Educational Opportunities Act."

16 Act of July 19, 1965 (P.L.215, No.116), entitled "An act
17 providing for the use of eye protective devices by persons
18 engaged in hazardous activities or exposed to known dangers in
19 schools, colleges and universities."

20 Section 4 of the act of January 25, 1966 (1965 P.L.1546,
21 No.541), entitled "An act providing scholarships and providing
22 funds to secure Federal funds for qualified students of the
23 Commonwealth of Pennsylvania who need financial assistance to
24 attend postsecondary institutions of higher learning, making an
25 appropriation, and providing for the administration of this
26 act."

27 Act of July 12, 1972 (P.L.765, No.181), entitled "An act
28 relating to drugs and alcohol and their abuse, providing for
29 projects and programs and grants to educational agencies, other
30 public or private agencies, institutions or organizations."

1 Act of December 15, 1986 (P.L.1595, No.175), known as the
2 "Antihazing Law."

3 Act of February 14, 2008 (P.L.6, No.3), known as the "Right-
4 to-Know Law."

5 65 Pa.C.S. Ch. 7 (relating to open meetings).

6 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial
7 disclosure).

8 * * *

9 Section 5. Section 1749-A of the act, added June 29, 2002
10 (P.L.524, No.88), is amended to read:

11 Section 1749-A. Applicability of other provisions of this act
12 and of other acts and regulations.

13 (a) General requirements.--Cyber charter schools shall be
14 subject to the following:

15 (1) Sections 108, 110, 111, 321, 325, 326, 327, 431,
16 436, 443, 510, 518, 527, 708, 752, 753, [755,] 771, 776, 777,
17 808, 809, 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301,
18 1302, 1310, 1317.2, 1318, 1330, 1332, 1303-A, 1518, 1521,
19 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-A,
20 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A, 1725-A,
21 1727-A, 1728-A(d), (e), (f), (g) and (h), 1729-A, 1730-A,
22 1731-A(a)(1) and (b) and 2014-A and Articles XII-A, XIII-A
23 and XIV.

24 (2) The act of July 17, 1961 (P.L.776, No.341), known as
25 the Pennsylvania Fair Educational Opportunities Act.

26 (3) The act of July 19, 1965 (P.L.215, No.116), entitled
27 "An act providing for the use of eye protective devices by
28 persons engaged in hazardous activities or exposed to known
29 dangers in schools, colleges and universities."

30 (4) Section 4 of the act of January 25, 1966 (1965

1 P.L.1546, No.541), entitled "An act providing scholarships
2 and providing funds to secure Federal funds for qualified
3 students of the Commonwealth of Pennsylvania who need
4 financial assistance to attend postsecondary institutions of
5 higher learning, making an appropriation, and providing for
6 the administration of this act."

7 (5) The act of July 12, 1972 (P.L.765, No.181) entitled
8 "An act relating to drugs and alcohol and their abuse,
9 providing for projects and programs and grants to educational
10 agencies, other public or private agencies, institutions or
11 organizations."

12 (6) The act of December 15, 1986 (P.L.1595, No.175),
13 known as the Antihazing Law.

14 (7) The act of February 14, 2008 (P.L.6, No.3), known as
15 the "Right-to-Know Law."

16 (8) 65 Pa.C.S. Ch. 7 (relating to open meetings).

17 (9) 65 Pa.C.S. Ch. 11 (relating to ethics standards and
18 financial disclosure).

19 * * *

20 Section 6. This act shall take effect in 90 days.