
A BILL OR AN ACT

AN ACT TO PROMOTE TRANSPARENCY AND ACCOUNTABILITY AND TO DISCOURAGE FRAUD AND MISMANAGEMENT OF PUBLIC EDUCATION RESOURCES

An Act to prevent fraud and financial mismanagement and to encourage transparency and accountability among operators of brick and mortar and cyber charter schools.



Section 101. Legislative Declarations and Findings

(a) Ensuring high-quality educational opportunities and successful outcomes for the State's students is a key priority of the Legislature. The long-term success of our economy and the health and well-being of our communities turns on our ability to prepare young people to be successful workers and contributors to civic life.

(b) Fraud, waste and mismanagement of precious public dollars for education threatens the State's ability to prepare its young people for future success. Such practices reduce resources needed to develop curricula, staff our public schools and implement programming to meet the needs of all students.

(c) Fraud, waste and mismanagement of funds also undermine support for public education and other public systems, ultimately making it more difficult for the State to serve its residents.

(d) By reducing fraud, waste and mismanagement of public resources, the State can ensure responsible stewardship of both the public trust and the public finance.

Section 102. Definitions

(a) "Charter school authorizing entity" shall mean any entity empowered to authorize charter schools, regional charter schools or cyber charter schools under State law.

(b) "Charter school entity" shall mean a charter school, regional charter school or cyber charter school.

(c) "Charter school entity operator" shall refer to the entity, whether public or private, for profit or not-for-profit that manages the operation of a charter school entity.

(d) "Charter school authorizing entity Portfolio" shall mean the group of charter school entities authorized by a charter school authorizing entity.

(e) "Civic engagement organization" shall mean a non-profit organization with experience engaging members of the public, including members of historically underrepresented groups, in public decision-making through the deployment of techniques such as surveys, interview focus groups, town hall meetings and facilitated deliberation.

(f) "Community organizations" shall mean a non-profit organization that has been in existence for three years or more and has a verifiable track record of working with the school's community on education and other issues.

Section 103. Office of Charter and Cyber Charter Schools

The State Education Agency shall establish an Office of Charter and Cyber Charter Schools (“The Office”) within one hundred twenty (120) days of the effective date of this section. The Office shall report directly to the Secretary of Education

(a) The Office shall be responsible for:

(1) Implementation of the provisions of this article.

(2) Oversight of performance and effectiveness of all charter school entities under subsection (b).

(3) Collection, development and dissemination of information, policies, strategies and best practices for the effective management and operation of charter school entities.

(4) Identification of model charter school entity applications and providing best practices.

(5) Organization and provision of mandatory training for members of the board of trustees and chief administrators of charter school entities. The training shall be paid for exclusively by the charter school entity. The following apply:

(i) Any person who serves as a member of a charter school entity board of trustees or

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Creation of effective and centralized Charter School oversight office with enforcement responsibilities and capabilities in accordance with local laws.

as a chief administrator shall be required to complete an annual minimum of eight (8) hours of continuing education in coursework directly related to his or her position in a charter school entity.

(ii) Continuing education training shall be provided by an eligible provider selected by the Office. Training topics that may be provided include:

a. Charter school entity best practices.

b. Overview of law relating to charter school entities, including special education topics.

c. Role of the board of trustees and administrators.

d. Audits and financing.

e. Potential conflicts of interest and compliance with [relevant State statute].

f. Compliance with [State Open Records law].

g. Compliance with [State statute(s) governing operation of non-profit corporations].

h. Compliance with [State Open Meetings statute].

i. Compliance with [State Statutes Related to Ethics standards and financial disclosure].

j. Compliance with state and federal civil law and affirmative strategies for ensuring that charter schools promote racial, ethnic, linguistic, economic and social equity and inclusion.

k. Effective strategies for guaranteeing transparency and accountability in charter school entity administration.

l. Effective strategies for partnering with community organizations and civic engagement organizations to promote racial, ethnic, linguistic, economic and social equity and inclusion, ensure parent and community engagement in charter school entity operations and design and implement quality programming.

(iii) The charter school entity shall annually certify to the Office on a form developed by

the Office for this purpose and supported by submitted documentary evidence that each member of the charter school entity's board of trustees and chief administrator have completed the minimum hours of continuing education as required under this section. The charter school entity shall also include this certification in its annual report and publish the same on its Internet website.

(6) Development and issuance of standardized forms that shall be used by all charter applicants as required under Section 105.

(7) Directing all charter school entities to submit an annual report to the Office not later than September 1 of each year and directing the Office and the State Education Agency to publish the same on its Internet website on an annual basis.

(8) Hearing appeals of charter grant, renewal or amendment decisions under Section 106.

(b) The Office shall have the following powers and duties:

(1) To conduct investigations of any local educational agency, charter authorizing entity or charter school entity in the event of persistently unsatisfactory performance of a charter school entity, a charter school entity operator, the charter school entities in a charter authorizing entity's portfolio, a pattern of well-founded complaints about charter authorizing entity, charter school entity, charter school entity operator or other objective circumstances, and take any appropriate action authorized under this article.

(2) To investigate fraud, waste, mismanagement and misconduct in the operation of local educational agencies, charter authorizing entities or charter school entities, including any of the following:

- (i) Misuse of movable and/or immovable property.
- (ii) Evidence of a pattern of wasteful spending or misappropriation of funds by board of trustee members, administrators or staff.
- (iii) Mismanagement of school operations.
- (iv) Waste or abuse of things of value belonging to State or local government.
- (v) Allegations of collusion or coercion.

(3) To receive complaints of fraud, waste, mismanagement, misconduct or persistently unsatisfactory academic performance on the part of a local educational agency, charter authorizing entity or charter school entity.

(4) To receive and investigate a complaint from any parent or guardian who has a student enrolled in a charter school entity regarding a member of the board of trustees who refuses or neglects to perform any duty imposed upon the member under this article or has violated any requirement established under this article or has committed misfeasance or malfeasance while in office as a trustee.

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Ensuring effective oversight through proactive investigation of charter school fraud, mismanagement and misconduct.

(5) To notify the local educational agency, charter authorizing entity or charter school entity in writing if at any time the office finds that a local educational agency, charter authorizing entity or charter school entity is not in compliance with an existing charter contract or the requirements of this act and to allow the local school board or charter school entity to have reasonable opportunity to respond and comply.

(6) To notify the Secretary if the local education agency, charter authorizing entity or charter school entity fails to comply with the direction given pursuant to this subsection. The Secretary shall have the authority to withhold payment of all funds to the local educational agency, charter authorizing entity or charter school entity or order school districts not to make any payments to the charter school entity until the Secretary determines that the charter school entity has complied with the directions given pursuant to this subsection. If the Secretary withholds payment of the subsidy to a local educational agency based on the actions of

that agency, the local educational agency shall not intentionally withhold payment of per pupil allocation payments to a charter school entity unless directed by the Secretary.

(7) To evaluate the performance of each charter school authorizing entity by assessing the performance of the charter schools within its portfolio in accordance with the standards described in Section 108. This evaluation shall be based upon:

- i. A review of all reports concerning charter schools within the charter school authorizing entity's portfolio required under Section 108.
 - a. An independent investigation by the Office that includes, but is not limited to: An independent survey of parents, teachers, classified staff and students affiliated with the charter school entities in the charter school authorizing entity's portfolio, provided that such survey be conducted with a representative sample of parents, teachers, classified staff and students;
 - b. A Consultation with parents, teachers, classified staff and administrators at traditional public schools in districts within which portfolio schools operate; A consultation with school board members and district staff in districts in which portfolio schools operate; and consultation with community organizations and civic engagement organizations working in communities in which portfolio schools operate.

(8) To affirm, reverse or otherwise adjust charter grant, renewal or amendment decisions made

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Meaningful and standardized evaluation of charter school performance

by charter authorizing entities pursuant to Section 106.

(9) To refer findings to the district attorney with jurisdiction or to the Office of Attorney General or to any other appropriate law enforcement agency for prosecution if the Office discovers or receives information about possible violations of law by any person affiliated with or employed by a local educational agency, charter authorizing entity or charter school entity.

(10) To provide technical and financial support for the operation of School Leadership Teams required by Section 108(a)(1).

(c) If at any point the ratio of charter school entities to full-time investigators employed by the Office to fulfill its duties under Section 103(b)(1) shall exceed ten to one, the State Education Agency shall issue a moratorium on the granting of new charters which shall be in effect until sufficient additional full-time investigative staff are hired to return the ratio to ten to one or less.

ADVOCATE ISSUE #4

*Ensuring legal accountability
for charter school misconduct*

Section 104. Charter School Entities Funding Advisory Commission

(a) The Governor shall immediately convene a Statewide advisory commission, to be known as the Charter School Entities Funding Advisory Commission, to examine the cost and funding of charter school entities in the public education system. The Commission shall examine how charter school entities' finances affect opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method of improving public education in the State. The Commission shall also examine how the financing of charter school entities affects the finances of existing school districts, including but not limited to impacts on district credit ratings and tax base losses. The Commission shall also examine the impact of charter school financing on educational opportunities for students in existing school districts, including but not limited to impacts related to the loss of teaching and classified staff, decreases in access to library, guidance, health services and other supportive services, the relationship between charter funding and school closures and the impact of such closures on student health, safety and general well-being. The Commission shall also receive input and gather information on charter school entities' funding reimbursements regarding eligible students. The State Budget Office and the State Education Agency shall provide administrative support, meeting space and any other assistance required by the commission to carry out its duties under this section.

(b) The commission shall consist of the following members:

- (1) One member of the Senate appointed by the Majority Leader of the Senate.
- (2) One member of the Senate appointed by the Minority Leader of the Senate.
- (3) One member of the House of Representatives appointed by the Majority Leader of the House of Representatives.
- (4) One member of the House of Representatives appointed by the Minority Leader of the House of Representatives.
- (5) The Secretary or a designee.
- (6) The chairman of the State Education Agency or a designee.
- (7) One member who is the operator of a charter school with no more than two campuses
- (8) One member who shall represent teachers in a public school that is not a charter school entity, who shall be appointed by the AFT-affiliated employee organization.
- (9) One member who shall represent teachers in a public school that is not a charter school entity, who shall be appointed by the NEA-affiliated employee organization.

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Creation of a Commission tasked with taking a holistic view of the financial and social impact of charter schools on communities

- (10) One member who shall represent school administrators.
 - (11) One member who shall represent school board members, who shall be appointed by the State School Boards Association.
 - (12) One member who shall be a business manager of a school district, who shall be appointed by the State Association of School Business Officials.
 - (13) One member who shall represent an institution of higher education with experience in operating a charter school entity, who shall be appointed by the State Association of Colleges and Universities.
- (c) Members of the Commission shall be appointed within twenty (20) days of the effective date of this section. Any vacancy on the commission shall be filled by the original appointing authority. The commission shall select a chairman and vice chairman from among its membership at

an organizational meeting. The organizational meeting shall take place not later than thirty (30) days following the effective date of this section.

(d) The Commission shall hold meetings at the call of the Chairman. The commission may also hold public hearings on the matters to be considered by the Commission at locations throughout this commonwealth. All meetings and public hearings of the Commission shall be deemed public meetings for the purpose of State Open Meetings law (relating to open meetings). Eight (8) members of the commission shall constitute a quorum at any meeting. Each member of the Commission may designate another person to represent that member at meetings of the Commission. All public hearings shall comport with the requirements below:

(1) Announced at least forty five days in advance;

(2) Publicized at school sites within the Local Education Agency and on all Local Education Agency and school websites;

(3) Scheduled for an evening or weekend time;

(4) Equipped with competent interpretation services in all languages spoken by 5% or more of the individuals or families in the school;

(5) Equipped with written materials that are translated into all languages spoken by 5% or more individuals or families in the school;

(6) Publicized through the use of and equipped with all auxiliary aids and services necessary to

ensure effective communication with individuals with disabilities consistent with 28 C.F.R. 35.160;

(7) Equipped with child care services;

(8) Structured to allow parents, students, teachers, classified staff and other members of the community opportunities to speak; and

(9) Publicized and executed in compliance with the State's Open Meetings law.

(e) Commission members shall receive no compensation for their services but shall be reimbursed for all necessary travel and other reasonable expenses incurred in connection with the performance of their duties as members. Whenever possible, the Commission shall utilize the services and expertise of existing personnel and staff of State government. The State Education Agency may utilize undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department, not to exceed three hundred thousand dollars (\$300,000), to carry out this section.

(f) The Commission shall have the following powers and duties:

(1) Meet with current charter school entity operators within the State, including cyber charter schools with blended programs.

(2) Meet with public education organizations, including, but not limited to organizations representing teachers, classified staff, students,

school boards and school business officials.

(3) Review charter school entity financing laws in operation throughout the United States.

(4) Determine the per-pupil cost of charter school entities in terms of their instructional expenditures, non-instructional student services expenditures, special education expenditures and administrative expenditures based on these expenditures in existing charter school entities in the State and in other states and on existing research on the costs of providing an adequate education to students enrolled in charter school entities.

(5) Review the process by which charter school entities are funded under [State statute governing charter funding], including review of those budget expenditures of a school district that should be excluded from funding that a school district shall provide to a charter school entity for a student enrolling in a charter school entity.

(6) Evaluate and make recommendations on the following:

(i) Powers and duties extended to charter school entities as they relate to financing.

(ii) Funding formulas for charter school entities, including reimbursement procedures and funding under Title I of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.).

(iii) The process by which charter school entities are funded under section [State statute

governing charter funding], including what budget expenditures of a school district should be excluded from funding that a school district shall provide to a charter school entity for a student enrolling in a charter school entity.

(iv) Student residency as it relates to funding.

(v) Special education funding reimbursements and other special program funding.

(vi) Charter school entity transportation.

(vii) Charter school entity eligibility to receive grants and funding.

(viii) Charter school entity transparency and accountability practices.

(7) The Commission shall, not later than [Date], issue a report of its findings and recommendations to the Governor, the President pro tempore of the [Upper House], the Minority Leader of the [Upper House], the chairman and minority chairman of the Appropriations Committee of the [Upper House], the chairman and minority chairman of the Education Committee of the [Upper House], the Speaker of the [Lower House], the Minority Leader of the House of Representatives, the chairman and minority chairman of the Appropriations Committee of the [Lower House] and the chairman and minority chairman of the Education Committee of the House of Representatives. Copies of the Commission report shall be made available to the public.

Section 105. Charter Application Requirements

The Office shall ensure accountability and transparency on the part of charter school entities by:

(a) Developing and issuing a standard application form that shall be used by all applicants to establish a charter school or cyber charter school. The application to establish a charter school entity shall include all of the following information:

- (1) Identity of the charter school entity applicant;
- (2) The name of the proposed charter school entity;
- (3) The grade or age levels served by the school;
- (4) An organization chart clearly presenting the proposed governance structure of the charter school entity, including lines of authority and reporting among the board of trustees, administrators, staff and any educational service provider that will play a role in providing management services to the charter school entity. It will include:
 - (i) A clear description of the roles and responsibilities for the board of trustees, administrators and any other entities, including a charter school entity foundation, shown in the organization chart.
 - (ii) A clear description and method for the

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Developing a standard application to promote consistency and transparency in the establishment and monitoring of quality charter schools

appointment or election of members of the board of trustees.

(iii) Standards for board performance and stewardship, including compliance with all applicable laws, regulations and terms of the charter.

(iv) If the charter school entity intends to contract with an educational service provider for services, the charter school entity applicant shall:

- a. Provide evidence of the educational service provider's record in serving student populations, including demonstrated academic achievement, demonstrated record of effectively serving students from diverse racial, ethnic, linguistic, economic and social backgrounds and students with disabilities and demonstrated management of nonacademic school functions, including proficiency with public school-based accounting, if applicable.

b. Provide a copy of the finalized management agreement, which shall include all of the following:

1. The proposed duration of the service contract;
2. Roles and responsibilities of the governing board, the school staff and the educational service provider;
3. The scope of services and resources to be provided by the educational service provider;
4. Performance evaluation measures and timelines, including but not limited to performance measures consistent with those set forth in Section 108(a);
5. The compensation structure, including clear identification of all fees to be paid to the educational service provider;
6. Methods of contract oversight and enforcement;
7. Investment disclosure or the advance of moneys by the educational service provider on behalf of the charter school entity; and
8. Conditions for renewal and termination of the contract.

c. Disclose and explain any existing or potential conflicts of interest between the board of

trustees and proposed educational service provider and any affiliated business entities, including a charter school entity foundation.

(5) The mission and education goals of the charter school entity, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.

(6) The recruitment strategy to be used by the charter school entity operator or charter school entity to ensure that the school attracts and ultimately enrolls students of color, English Language Learners, students with disabilities and low-income students in proportions that are equal or substantially similar to those at the average traditional public school in the district where the charter school entity proposes to operate;

(7) The admission policy and criteria for evaluating the admission of students, including the maximum number of students the school will enroll during each year of its charter;

(8) Procedures which will be used regarding the suspension or expulsion of pupils and to ensure that suspension and expulsion rates do not surpass those in the average traditional public school in the district where the charter school entity proposes to operate;

(9) Information on the manner in which community organizations and civic engagement organizations will be involved in the charter school planning process;

(10) The financial plan for the charter school entity

based on the projected range of the number of students enrolled in the school during each year of the proposed charter period and the provisions which will be made for auditing the school, including the role of any charter school entity foundation;

(11) Procedures which shall be established to review complaints of parents regarding the operation of the charter school entity;

(12) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements;

(13) Information on the proposed school calendar for the charter school entity, including the length of the school day and school year;

(14) The proposed faculty and a professional development plan for the faculty and staff of a charter school entity;

(15) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence, provided the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity;

(16) A report of criminal history record for all individuals who shall have direct contact with students. These reports shall be used in accordance with 2013 Equal Employment Opportunity Commission directives—which require that no potential employee be automatically barred from employment due to a conviction unless that conviction is job related and consistent with business necessity and an arrest, without a conviction, should not be assumed to indicate guilt;

(17) An official clearance statement regarding child injury or abuse from the State Department of Welfare for all individuals who shall have direct contact with students;

(18) How the charter school entity will provide adequate liability and other appropriate insurance for the charter school entity, its employees and the board of trustees of the charter school entity;

(19) The proposed manner in which the charter school entity will assess student performance in alignment with the standards set forth in Section 108(a).

Section 106. Term and Form of Charter

(a) Upon approval of a charter application, a written charter shall be developed which shall contain the provisions of the standardized charter application under Section 105 and which shall be signed by the charter authorizing entity and the board of trustees of the charter school entity. This written charter, when duly signed by the charter school authorizing entity and the board of trustees of the charter school entity, shall act as legal authorization for the establishment of a charter school, regional charter school or cyber charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the board of trustees of the charter school, regional charter school or cyber charter school. If the charter school, regional charter school or cyber charter school contracts with an educational service provider, an executed contract shall be signed once the charter is approved. The charter shall be for a period of no less than three (3) nor more than five (5) years and may be renewed for five (5) year periods upon reauthorization by the charter authorizing entity or the Office serving in its capacity as an appeals body pursuant to Section 103(a)(8). A charter will be granted only for a school organized as a public, nonprofit corporation.

(b) Charter renewals shall be granted as follows:

(1) Notwithstanding subsection (a), a charter authorizing entity may renew a charter for a period of one (1) year if it determines that there is insufficient data concerning the charter school's academic performance to adequately assess that performance and determines that an additional year of performance data would yield sufficient

data to assist the charter authorizing entity in its decision whether to renew the charter for a period of five (5) years.

(2) A one-year renewal pursuant to paragraph (1) shall not be considered an adjudication and may not be appealed to the Office.

(3) A charter authorizing entity does not have the authority to renew a charter for successive one (1) year periods.

(c) Charters shall be amended in accordance with the following provisions:

(1) A charter school entity shall request an amendment to its approved written charter if at any time after the approval or renewal of its written charter the charter school entity seeks to contract out services of the charter school entity with an educational service provider or contract with another educational service provider not disclosed in the charter school entity's application submitted pursuant to Section 105.

(2) The charter school entity shall file a written document describing the requested amendment with the local board of school directors and include the following:

i. Evidence of the educational service provider's record in serving student populations, including demonstrated academic achievement, demonstrated record of effectively serving students from diverse racial, ethnic, linguistic, economic and social backgrounds and students with disabilities and demonstrated management

of nonacademic school functions, including proficiency with public school-based accounting, if applicable.

(ii) A copy of the finalized management agreement, which shall include all of the following:

a. The proposed duration of the service contract;

b. The roles and responsibilities of the governing board, the school staff and the educational service provider; and

c. The scope of services and resources to be provided by the educational service provider.

d. Performance evaluation measures and timelines, including but not limited to performance measures consistent with those set forth in Section 108(a).

e. The compensation structure, including clear identification of all fees to be paid to the educational service provider.

f. The methods of contract oversight and enforcement.

g. An investment disclosure or the advance of moneys by the educational service provider on behalf of the charter school or regional charter school.

h. The conditions for renewal and termination of the contract.

(iii) Disclose and explain any existing or potential conflicts of interest between the board of trustees and proposed educational service provider and any affiliated business entities, including a charter school entity.

(3) Within twenty (20) days of its receipt of the request for an amendment, the charter authorizing entity shall hold a public hearing on the requested amendment in compliance with [State Open Meetings law].

(4) Within twenty (20) days after the hearing, the charter authorizing entity shall grant or deny the requested amendment. Failure by the charter authorizing entity to hold a public hearing and to grant or deny the amendment within the time period specified in this subsection shall be deemed an approval.

(5) An applicant for an amendment shall have the right to appeal the denial of the requested amendment to the Office pursuant to Section 103(a)(8).

Section 107. Charter Renewal, Causes for Nonrenewal or Termination

(a) Charter schools seeking renewal shall send a renewal application in a form prescribed by the Office to the local school board not later than October 1 of the final school year of the charter school's current charter. During the term of the charter or at the end of the term of the charter, the charter authorizing entity may choose to revoke or not to renew the charter based on any of the following:

- (1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section Section 106.
- (2) Failure to meet the requirements for student performance set forth in Section 108(a), failure to meet any performance standard set forth in the written charter signed pursuant to Section 106 or failure to make adequate yearly progress for at least three (3) consecutive years under the State accountability standards that apply the requirements set forth in the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.).
- (3) Failure to meet generally accepted standards of fiscal management or audit requirements or failure to maintain the financial ability to continue according to generally accepted accounting principles.
- (4) Violation of provisions of this article.

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Consistent and transparent requirements for the renewal or termination of charter school charters

- (5) Violation of any provision of law from which the charter school has not been exempted, including Federal laws and regulations governing children with disabilities.
- (6) Conviction of administrators or board members of offenses pertaining to fraud, theft or mismanagement of public funds or any crime committed in the course of their official duties.
- (7) Failure to obtain and submit a certified independent audit to the department for any year of the school's operation by November 15 after the close of the school year.
- (8) Failure of the charter school to be the employer of all teaching staff in the school, except as permitted pursuant to Section 105(a)(4)(iv).
- (9) Demonstration by the charter-granting entity that a material misrepresentation of fact was contained in the charter school's application or in its annual charter school report that was submitted to the chartering entity under Section 108(b).

(10) Failure to correct within thirty (30) days of receiving notice from the Office any conflict of interest by a member of its board of trustees or administrators pursuant to Section 105(a)(4)(iv) or Section 106(c)(2)(iii).

(b) If a charter school entity has failed to make adequate yearly progress for one (1) or two (2) years under the State accountability standards that apply the requirements set forth in the Elementary and Secondary Education Act of 1965 and is seeking renewal of its charter and the charter authorizing entity renews the charter, it may do so for a time period less than five (5) years and may require the charter school entity to meet specific performance targets within defined periods of time, subject to the following:

(1) The performance targets and the periods of time in which the performance targets must be met shall be reasonable. For purposes of this section, the standards defined as adequate yearly progress under the Elementary and Secondary Education Act of 1965 and the performance standards set forth in Section 108(a) shall be deemed reasonable.

(2) The placement of conditions in a charter as specified in this subsection shall not be considered an adjudication and may not be appealed to the Office.

(3) If the charter school fails to meet the performance targets within the stated period of time, such failure shall be sufficient cause for revocation of the charter.

(c) A charter authorizing entity shall revoke the charter of a charter school that has failed to make

adequate yearly progress for at least five (5) consecutive years under the State accountability standards that apply the requirements set forth in the Elementary and Secondary Education Act of 1965. Any revocation pursuant to this subsection shall not be subject to the automatic stay provided for in subsection (f).

(d) If, after a hearing under this section, a charter authorizing entity proves by a preponderance of the evidence that certain administrators or board members have violated this act or the terms and conditions of the charter, the charter authorizing entity shall have the authority to require the charter school to replace those administrators and board members in order to obtain renewal of the charter.

(e) A member of the board of trustees who is convicted of a felony, which is job related, shall be immediately disqualified from serving on the board of trustees.

(f) Any notice of revocation or nonrenewal of a charter given by the charter authorizing entity shall state the grounds for such action with reasonable specificity and give reasonable notice to the governing board of the charter school of the date on which a public hearing concerning the revocation or nonrenewal will be held. The charter authorizing entity shall conduct such hearing, present evidence in support of the grounds for revocation or nonrenewal stated in its notice and give the charter school reasonable opportunity to offer testimony before taking final action. Formal action revoking or not renewing a charter shall be taken by the charter authorizing entity at a public meeting pursuant to [State Open Meetings law] after the public has had thirty (30) days to

provide comments to the board. All proceedings of the local board pursuant to this subsection shall be subject to [State statute governing agency procedure]. Except as provided in subsection (d), the decision of the charter authorizing entity shall not be subject to [State statute governing judicial review of agency action].

(g) The charter school may appeal the decision of the charter authorizing entity to revoke or not renew the charter to the Office. The Office shall have the exclusive review of a decision not to renew or revoke a charter. The Office shall review the record and shall have the discretion to supplement the record if the supplemental information was previously unavailable. The Office may consider the charter school plan, annual reports, student performance and employee and community support for the charter school in addition to the record. The Office shall give due consideration to the findings of the charter authorizing entity and specifically articulate its reasons for agreeing or disagreeing with those findings in its written decision.

(h) If the Office determines that the charter should not be revoked or should be renewed, the appeal board shall order the charter authorizing entity to rescind its revocation or nonrenewal decision.

(i) Except as provided in subsection (g), the charter shall remain in effect until final disposition by the Office.

(j) In cases where the health or safety of the school's pupils, staff or both is at serious risk, the charter authorizing entity may take immediate action to revoke a charter.

(k) All decisions of the Office shall be subject to appellate review in State court.

(l) When a charter is revoked, not renewed, forfeited, surrendered or otherwise ceases to operate, the charter school entity shall be dissolved. After the disposition of any liabilities and obligations of the charter school, any remaining assets of the charter school, both real and personal, shall be distributed on a proportional basis to the school entities with students enrolled in the charter school for the last full or partial school year of the charter school. In no event shall such school entities or the State be liable for any outstanding liabilities or obligations of the charter school entity.

(m) When a student shall apply to another public school in the student's school district of residence. Normal application deadlines will be disregarded under these circumstances. All student records maintained by the charter school shall be forwarded to the student's district of residence within ten (10) days of the revocation or nonrenewal of the charter.

Section 108. Charter School Performance Requirements

Each charter school authorizing entity shall require, as a condition of authorization or sponsorship, that each charter school entity operator meet the following performance requirements.

(a) Performance Standards. Each charter school entity operator shall:

(1) Establish a School Leadership Team to serve each charter school entity. The composition of the School Leadership Team to serve each charter school entity shall be as follows:

i. The School Leadership Team for a middle or elementary school shall have at least thirteen members for middle or elementary schools with less than 750 students. The School Leadership Team for a middle or elementary school shall have at least fifteen members for middle or elementary schools with greater than 750 students.

a. An equal number of voting members shall be parents elected by parents and teachers or other classified staff members selected by teachers and classified staff members.

1. At least one member of the School Leadership Team shall be a classified staff member.

2. If an employee organization of teachers has a collective bargaining agreement with

ADVOCATE ISSUE #8

Creation of School Leadership Team to facilitate cooperation and community involvement

the school district, the employee organization shall administer a democratic selection process to choose the teachers on the team, provided that at least one member of the School Leadership Team be a teacher selected directly by the employee organization.

b. The school principal shall be a voting member of the School Leadership Team. The school principal shall not be the chair of the School Leadership Team.

c. Upon selection, the School Leadership Team shall immediately appoint two representatives from the community who are not parents, teachers, classified staff or students to serve as voting members on the School Leadership Team.

d. Following the selection of the community representatives, the School Leadership Team shall select a chair to guide the School Leadership Team's work.

ii. The School Leadership Team for a high school shall have at least fifteen members and shall

meet the requirements of Section 106(a)(1)(i), except the School Leadership Team shall have one fewer parent under Section 106(a)(1)(i)(a), one more teacher under Section 106(a)(1)(i)(a) and two students elected by students of the school shall serve as voting members.

iii. Upon selection, the School Leadership Team shall be responsible for monitoring and developing recommendations related to the following aspects of charter school entity operations:

a. Identify challenges facing the school;

b. Analyze the student body; including:

1. Number of students with disabilities and needs of these students;

2. Number of students who are English Language Learners and the needs of these students; and

3. Number of students receiving free or reduced priced lunch and the needs of these students.

c. Analyze enrollment and retention rates for students of color, students with disabilities, English Language Learners and students receiving free or reduced priced lunch;

d. Analyze suspension and expulsion data, including the justification for such disciplinary actions and the degree to which particular

populations, including but not limited to students of color, students with disabilities, students who are English Language Learners, and students receiving free or reduced price lunch, are represented among students subject to such actions;

e. Analyze school achievement data, demographics, and mission;

f. Analyze parent engagement strategies;

g. Evaluate the need for and availability of wraparound services including; but not limited to:

1. Mechanisms for meeting students' social, emotional and physical health needs, which may include coordination of existing services as well as the development of new services based on student needs; and

2. Strategies to create safe and secure school environments and improve school climate and discipline, such as implementing a system of positive behavioral supports, and taking additional steps to eliminate bullying;

3. Analyze the breadth and depth of community and school support for the charter school curriculum and the breadth and depth of support for changes to the charter school curriculum.

iv. The School Leadership Team shall develop recommendations, based on its findings with respect to Section 106(a)(1)(iii), for the charter

school board. These recommendations shall be communicated to the charter school board in the form of a report on a semi-annual basis. This report shall also be made publicly available at the school site and on the charter school and district websites.

v. The School Leadership Team shall present its findings and recommendations at a public meeting of the charter school board that is convened in accordance with Section 108(a)(2)(i).

vi. The School Leadership Team shall have ongoing responsibility for the following:

- a. Monitoring and assisting in the implementation of the school improvement plan;
- b. Interviewing candidates for principal and other administration positions and making recommendations to the superintendent and the local school board;
- c. Advising on the school budget;
- d. Establishing ongoing mechanisms that engage students, parents and community members in the school;
- e. Continuing to collect feedback and information from parents using an annual survey;
- f. Developing and approving a written parent involvement policy that outlines the role of

parents and legal guardians in the school;

g. Monitoring school progress on data related to academic achievement disaggregated by race and ethnicity, free and reduced price lunch eligibility, English language learner status and special education status;

h. Monitoring school progress on data related to attendance, suspensions, expulsions disaggregated by race and ethnicity, free and reduced price lunch eligibility, English language learner status and special education status;

i. Monitoring reclassifications of English language learners and special education status disaggregated by race and ethnicity, free and reduced price lunch eligibility;

j. For high schools, monitoring graduation rates disaggregated by race and ethnicity, free and reduced price lunch eligibility, English language learner status and special education status;

k. Meeting regularly with the principal to provide advice on policy matters affecting the school; and

l. Meeting regularly with parents and community members to discuss policy matters affecting the school.

(2) Guarantee transparency and accountability with respect to operation of the charter school board of trustees pursuant to Section 109.

i. The charter school entity operator shall host a minimum of four public meetings each academic year. These meetings shall be:

a. Announced at least forty five days in advance;

b. Publicized at each charter school site, on the charter school's website and on the website of the Local Education Agency;

c. Scheduled for an evening or weekend time;

d. Equipped with competent interpretation services in all languages spoken by 5% or more of the individuals or families in the school;

e. Equipped with written materials that are translated into all languages spoken by 5% or more individuals or families in the school;

f. Publicized through the use of and equipped with all auxiliary aids and services necessary to ensure effective communication with individuals with disabilities consistent with 28 C.F.R. 35.160;

g. Equipped with child care services;

h. Structured to allow parents, students, teachers, classified staff and other members of the community meaningful opportunities to speak before votes are taken or decisions are otherwise made;

i. Publicized and executed in compliance with

ADVOCATE ISSUE #9

Promoting transparency and accountability through public meetings and consultation

the State's Open Meetings law

j. thoroughly documented with minutes made available on the school's website as well as that of the local education agency.

(3) The charter school entity operator shall take affirmative steps to ensure that information about charter school board public meetings is broadly distributed throughout the community. These steps shall include, but shall not be limited to, partnership with community organizations, civic engagement organizations, and employee organizations. Ensure equitable student enrollment and retention, including but not limited to the following:

i. A charter school operator shall:

a. Maintain enrollment of students of color, students with disabilities, students who are English Language Learners and students receiving free or reduced-price lunch at each charter school entity that is equivalent or substantially similar to that of the average traditional public school in the district;

b. Maintain an attendance rate at each charter school entity that is equivalent or substantially similar to that of the average traditional public school serving comparable grade levels in the district, provided that the State Education Agency shall promulgate regulations with respect to the number of hours that students must be online and offline engaged in educational activities;

c. Ensure that neither the suspension rate nor the expulsion rate at each charter school entity exceeds that of the average traditional public school serving comparable grade levels in the district.

(b) Charter School Reporting: On an annual basis, each charter school entity operator shall submit a report to the Office documenting outcomes at each charter school entity relative to the performance standards set forth above, including but not limited to the following:

(1) School Leadership Team

a. The existence and composition of a School Leadership Team to serve each charter school entity, as well as vacant positions and plans for filling them;

b. The total number of School Leadership Team meetings, a summary of minutes from each meeting and participant lists for each meeting;

c. All reports submitted by School Leadership Teams to their respective charter school boards pursuant to Section 108(a)(1)(iv); and

ADVOCATE ISSUE #10

Facilitating accountability through mandated annual reporting.

d. Ongoing analysis, findings and recommendations of the School Leadership Team acting pursuant to Section 108(a)(1)(vi).

(2) Charter School Board of Trustees Transparency and Accountability

a. Minutes from charter school board of trustees meetings, including testimony or comments submitted by the School Leadership Team, parents, teachers and classified staff, students and community members at public meetings;

b. A description of all steps taken to comply with Section 108(a)(2)(i);

c. An explanation of how each charter school board of trustees has responded or is responding to concerns submitted by School Leadership Team, parents, teachers and classified staff, students and community members at public meetings.

(3) Student Enrollment & Retention

a. Enrollment of students of color, students with

disabilities, ELL and students receiving free or reduced price lunch at each charter school site compared to those of the average traditional public school serving comparable grade levels in the district:

b. Suspension and expulsion rates for each charter school site as compared to those of the average traditional public school serving comparable grade levels in the district;

c. Attendance rates at each charter school site as compared to the average for traditional public schools serving comparable grade levels in the district.

Section 109. Charter School Board of Trustees.

(a) Members of the board of trustees and administrators of a charter school entity shall be deemed to be public officials and subject to the provisions of [State Open Meetings statute] and [State statute governing ethics standards and financial disclosure].

(b) The board of trustees of a charter school entity shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter.

(1) The board of trustees shall have the authority to employ, discharge and contract with necessary professional and nonprofessional employees subject to the school's charter and the provisions of this Act. The charter school board of trustees, only with written permission of the State Education Agency, may contract with educators who are not employees of the charter school entity to serve as teaching staff, provided that no more than five per centum of the teaching staff of a charter school entity shall be contracted out, except that a charter school entity may, upon written permission of the State Education Agency, contract for teaching staff in specialized subjects above the five per centum limit.

(2) The board of trustees of a charter school entity shall have a minimum of five (5) voting members. If a charter school entity has fewer than five (5) voting members serving on its board as of the effective date of this subsection, the charter school entity shall have sixty (60) days to appoint

additional members to the board to meet the minimum requirements of this section.

(c) The following shall apply to all members of the board of trustees of a charter school:

(1) No member of a local school board of a school entity shall serve on the board of trustees of a charter school that is located in the member's district.

(2) No administrator or member of a local school board which granted or renewed a charter shall serve on the board of trustees of a charter school that is the subject of the granted or renewed charter.

(3) No member of the board of trustees shall be employed in any capacity or have any financial relationship with the local school board from which the charter school received its charter. No member of the board of trustees of a cyber charter school shall be employed in any capacity or have any financial relationship with the department.

(4) No member of the board of trustees or a member of the immediate family of the member of the board of trustees shall be employed by the charter school entity or have a financial relationship with the charter school entity, nor be employed by any entity that has a financial relationship with the charter school entity or any related or associated foundation unless the charter school or cyber charter school complies with the requirements of [State Statute governing conflicts of interest for public officials and employees].

(5) No member of the board of trustees or a member of the immediate family of the member of the board of trustees shall be employed by or have a financial relationship with an educational service provider which is under contract with the charter school entity or any related or associated foundation.

(6) A member of the board of trustees shall disqualify himself or herself and abstain from voting in a proceeding which constitutes a conflict of interest or where the objectivity, impartiality, integrity or independence of judgment of the member may be reasonably questioned.

(7) A member of the board of trustees shall be automatically disqualified from serving on the board upon conviction for an offense graded as a felony or an infamous crime, which pertains to the member's official capacity as a board member.

(8) No member of the board of trustees, employee or administrator of a charter school entity shall convert to his own use or use by way of investment or contract any portion of the charter school entity's funds or school property or deposit any of the funds of the charter school entity in any other name.

(9) No business entity, including for-profit and nonprofit entities with which a member of the board of trustees, an administrator or a member of the immediate family of the member of the board of trustees or administrator is associated shall contract with the charter school entity unless the charter school complies with the requirements of [State Statute governing conflicts of interest for public officials and employees].

(10) No member of the board of trustees or a member of the immediate family of the member of the board of trustees shall act as an agent for any vendor or subvendor for goods or services with the local school board or charter school entity.

(11) No member of the board of trustees shall commingle or allow the commingling of any portion of the charter school entity's funds or property or deposit any of the funds of the charter school entity in accounts unrelated to the charter school entity.

(12) No member of the board of trustees of a charter school entity shall be employed by a charter school entity foundation or any entity affiliated with a charter school entity foundation. No immediate family member of a member of the board of trustees shall serve on, receive compensation from or be employed by a charter school entity foundation or any entity affiliated with a charter school entity foundation.

(13) No member of the board of trustees of a charter school entity shall be employed in any capacity or have a financial relationship with the department.

(14) Any member of the board of trustees, elected officials, administrators or their immediate families or staff determined to have engaged in any conduct in contravention of any aspect of this subsection shall be immediately barred and prohibited from the handling or receipt of funds, directly or indirectly, for a period of five (5) consecutive years from the date of receipt, expenditure, oversight or handling in any fashion, directly or indirectly, of the funds of any school board, charter school entity, charter

school entity foundation or appropriated by the Commonwealth, including, but not limited to, awards of contracts to third parties, hiring or retention of employees or consultants and the purchase or acquisition of goods or services.

(d) At least one member of the board of trustees of a charter school entity shall be a parent of a child attending that charter school entity.

(e) The following shall apply:

(1) The Secretary, upon a petition, may remove a member of a board of trustees if the Secretary determines the member has refused or neglected to perform any duty imposed under this article or has violated any requirement established under this article or has committed misfeasance or malfeasance while in office as a trustee.

(2) Before a trustee is removed, that trustee shall be provided with a written statement of the reasons for removal and an opportunity to be heard in accordance with [State Statute Governing Practice and Procedure for State Agencies] and [State Statute Governing Judicial Review of Agency Action].

(3) When in the judgment of the secretary the immediate removal of a board member is reasonably necessary, the removal process described under this subsection may be expedited.

(4) Any person removed as a member of the board of trustees of a charter school entity under this subsection shall not be eligible again to serve as

a board member or administrator for the period of five (5) years from the date of removal.

ADVOCATE ISSUE #11

*Promoting fiscal responsibility
by mandating a Charter
School Fund Balance Limit*

**Section 110. Charter School Fund
Balance Limit**

(a) For the 2014-2015 school year and each school year thereafter, a charter school that is not a cyber charter school shall not accumulate an unassigned fund balance greater than the charter school fund balance limit, which will be determined as follows:

Maximum Unassigned Charter School Total Fund Balance as Budgeted Expenditures Percentage of Total Budgeted Expenditures Less than or equal to \$11,999,999 12% More than \$12,000,000 and less than \$12,999,999 11.5% More than \$13,000,000 and less than \$13,999,999 11% More than \$14,000,000 and less than \$14,999,999 10.5% More than \$15,000,000 and less than \$15,999,999 10% More than \$16,000,000 and less than \$16,999,999 9.5% More than \$17,000,000 and less than \$17,999,999 9% More than \$18,000,000 and less than \$18,999,999 8.5% More than or equal to \$19,000,000 8%

(b) Any unassigned fund balance in place on June 30, 2015, that exceeds the charter school fund balance limit shall be refunded on a per student pro rata basis within ninety (90) days of the effective date of this subsection to all school districts that made payments under section [State statute governing charter school funding] in the 2013-2014 and 2014-2015 school years. The funds may not be used to pay bonuses to any administrator, board of trustee member, employee, staff or contractor or be transferred to a charter school foundation.

(c) For The 2013-2014 school year and each school year thereafter, any unassigned fund balance in

excess of the charter school fund balance limit shall be refunded on a per student pro rata basis to all school districts that made payments under [State statute governing charter funding] in the prior school year.

(d) By August 15 of each year, each charter school shall provide the State Education Agency with information certifying compliance with this section. The information shall be provided in a form and manner prescribed by the department and shall include information on the charter school's estimated ending unassigned fund balance expressed as a dollar amount and as a percentage of the charter school's total budgeted expenditures for that school year.

(e) As used in this section, "unassigned fund balance" shall mean that portion of the fund balance which represents the part of spendable fund balance that has not been categorized as restricted, committed or assigned.

Section 111. Actual Costs of Educational Services

(a) Within one hundred eighty (180) days of the effective date of this Act, the State Education Agency shall promulgate audit standards under this article which shall be used in determining the year-end actual costs of educational services per non-special education student and special education student provided by a charter school entity to any child who is a resident of a school district, which are subject to payment in accordance with section [State statute governing charter funding]. The department shall follow the procedures provided in [State statute governing public documents] and [State statute governing rulemaking processes] for promulgation and review of final-omitted regulations. Subsequent audit standards promulgated under this section or amendments to the initial audit standards may not be in final-omitted form. The audit standards shall take effect at the beginning of the first school year after which such audit standards have been promulgated.

(b) In order for the year-end actual costs of educational services per non-special education student and special education student to be thoroughly and properly determined, the audit standards promulgated by the department shall:

(1) Specify reasonable costs associated with the operation of the educational program offered by a charter school entity. The following may not be considered reasonable costs associated with the operation of the educational program offered by a charter school entity:

(i) Any paid media advertisement, including television, radio, movie theater, billboard, bus poster, newspaper, magazine, the Internet or any other commercial method that may promote enrollment of a charter school entity.

(ii) Any bonuses or additional compensation beyond the annual or termed contractual compensation for all faculty, administration and staff, including salary, benefits and any additional compensation not specifically enumerated in the contract.

(2) Allow a closely related business entity to charge up to one hundred seven per centum of the actual educational costs.

(3) Require information as necessary for a full-scope review of a finalized management agreement entered into between a charter school entity and a closely related business entity, including:

(i) All payments received from school districts of residence.

(ii) Expenditures of the closely related business entity related to the delivery of educational and administrative services pursuant to the management agreement.

(4) List and show all receipts and expenditures for an educational service provider that provides any service to a charter school or cyber charter school.

(5) Provide reasonable penalties for failure to comply.

(c) The following shall apply:

(1) The State Education Agency shall effectuate an annual year-end final reconciliation process of tuition payments against actual costs of educational services per non-special education student and special education student providing any necessary procedures for the transfer of funds from the charter school entity to the school district of residence. The final reconciliation process shall include one of the following:

(i) Allowing a school district of residence to withhold its last monthly payment from a charter school entity to account for any overpayments as identified by the year-end audit. If the school district of residence has sent overpayments, the district may adjust its last monthly payment accordingly.

(ii) Requiring a charter school entity at the end of each school year to return any overpayments to a school district of residence owed a refund. A charter school entity may not return any overpayments on a pro rata basis.

(2) Procedures for the transfer of funds may not permit the department to deduct from a school district of residence's basic education subsidy any amount in excess of the selected expenditure per average daily membership amount calculated in accordance with section [State statute governing charter funding].

(d) Charter school entities, educational service providers and closely related business entities shall provide to the State Education Agency, unless already retained by the department, any

information necessary to carry out the provisions of this section.

(e) Except as provided under subsection (c), nothing contained under this section shall permit a school district of residence to provide funding for charter school entities in a manner other than that which is specified in section [State statute governing charter funding].

(f) As used in this section,

i. “Closely related business entity” shall mean any organization with a management or operational relationship with a charter school involving either shared or overlapping aspects of corporate identity such as ownership, board of directors or trustees membership, capital or profits.

ii. “Educational and administrative services” shall mean any direct expenditure for any instruction and the administration of the instructional program. The term shall not include any expenditures not pertaining directly to the instruction and the administration of the instructional program.

iii. “Educational service provider” shall mean a for-profit education management organization, nonprofit charter management organization, school design provider, business manager or any other partner entity with which a charter school or cyber charter school intends to contract or presently contracts to provide educational services, operational services or management services to the charter school. The term shall not include a charter school or cyber charter school foundation.

iv. “Management agreement” shall mean any contract establishing a management or operational relationship between a charter school or cyber charter school and closely related business entity for the provision of professional or nonprofessional services to the charter school or cyber charter school.

Section 112. Cyber Charter Deduction

Beginning in the 2014-2015 school year, the charter school entity shall receive for each student enrolled in a cyber charter school, no less than the amount calculated under this clause minus a cyber program deduction; a district pupil services deduction; and an extracurricular activities deduction.

Section 113. Statewide Reporting

The Office of Charter and Cyber Charter Schools shall take the following steps to promote transparency and accountability with respect to the investment of state and local education dollars, including but not limited to the following:

- a. Report to the State Legislature and the Office of Governor on an annual basis;
- b. Post on its website and make available at its offices reports including:
 - i. Total amount of unassigned fund balances repaid to local educational agencies pursuant to Section 110(b) and 110(c);
 - ii. The names of all charter school operators and charter authorizing entities found to be non-complaint with the performance standards set forth in Section 108(a) or the reporting requirements set forth in Section 108(b);
 - iii. The names of all local educational agencies, charter school authorizing entities or charter school entities that have been investigated or are currently under investigation by the Office pursuant to Section 103(b)(1).