



Pennsylvania Charter School Law

A Policy Brief from Public Citizens for Children and Youth

Charter School Overview

Charter schools have become an important, substantial and rapidly growing component of publicly-funded k-12 education nationally and in Pennsylvania. Nationwide, 41 states and the District of Columbia have laws providing for or authorizing charter schools.

In Pennsylvania, 144 charter schools have been opened since the adoption of a charter school law in 1997. *Locally, Philadelphia* serves more than 43,000 charter students — approximately 22% of the students in the city's publicly-funded schools.¹

Fast Facts About Charter Schools

- Charter schools are independent publicly-funded and privately operated schools that are part of Pennsylvania's public education system.
- Charter schools do not charge tuition.
- Charter schools do not have admission requirements. If more students apply than the capacity of the school, class, grade level or building, students are accepted through a lottery system.
- Charter schools in Pennsylvania are funded by having a percentage of the public school per pupil state aid transferred from the home school district to the charter school.
- Charter schools are organized and operated as nonprofit corporations.

The concept behind charter schools when they were introduced nationally in 1991 was that they would serve as educational laboratories. Unlike traditional public schools, charters would be given the freedom to innovate. Charter school proponents anticipated improved student performance in charter schools would stimulate improvements in best practices and competition in the District-managed public schools.

Now, more than two decades since charters were introduced nationally and more than a decade after they were established in Pennsylvania, charter schools have become the subject of legislative and academic debate. Nationally, charter school expansion is a critical component for states competing for federal Race to the Top dollars. In Pennsylvania, charter school bills introduced in the State Senate and House of Representatives during the spring 2011 session support the broad expansion of charter schools.²

Proponents of the proposed legislation believe that charter school expansion will provide parents concerned with the pace of school reform with more alternatives to traditional public schools. Some opponents of the bills are concerned that charter schools are plagued by the same problems as traditional public schools, are not accessible to students with special learning needs and redirect financial resources away from more traditional public schools.

The current legislative efforts in Pennsylvania prompted Public Citizens for Children and Youth (PCCY) to explore the record, experiences and impact of charter schools in the Commonwealth. Specifically, PCCY was interested in how Pennsylvania's current legislation could be strengthened to capitalize on the successes of high-performing charters, facilitate the closure of low-performing charters that are unable to course correct, support charters schools collaborating with, and positively impacting, traditional public schools, and ensure that effective charters serve as laboratories for all publically funded schools.

Helping Charters Fulfill Their Promise

PCCY identified four areas that should be addressed to ensure charter schools are able to fulfill their stated purpose to bring innovation, academic excellence and disseminate best practices throughout school districts-the relationship between school districts and charter schools, the absence of agreed upon school quality measures, unclear authorizing standards, and an inadequate charter school funding formula. Before passing any new legislation, we recommend that the legislature:

1. Improve the complex relationship between school districts and charter schools located in that school district;
2. Develop consensus among charter operators, authorizers, stakeholders and the public regarding school quality measures;
3. Develop a strong, fair and consistent authorizing and oversight body or bodies; and,
4. Improve the charter school funding formula.

Pennsylvania's hesitancy to develop agreed upon quality standards for charter schools has led to confusion regarding reauthorization decisions, which in turn has led to most schools being almost automatically renewed. While the diversity of charter school missions, educational models and student populations makes it difficult to establish common quality standards, it can be done. Other states have articulated clear performance standards and Pennsylvania's ability to do so will be critical to the success of our charter schools moving forward.

Proposed Charter School Legislation

The recent charter school bills introduced in the State Senate and House of Representatives would allow for the quick expansion of charters, without setting forth a framework for holding them accountable to the public and families that they serve. Moreover, the proposed legislation does not address the shortcomings of the current charter school legislation and may exacerbate those problems.



Among other things, *the bills would:*

1. Expand the types and number of authorizing authorities in Pennsylvania to include universities and an independent state commission;
2. Allow charter school applicants to forgo local school district and community input regarding whether a charter school should open in their district/community; and,
3. Increase the charter school renewal period (from 5 to 10 years).

The bills would not:

1. Establish a performance accountability model, or framework for authorizers to set up and implement such a framework;
2. Protect the interest of children with special needs, English language learner status, or those with behavioral issues who attend or wish to attend charter schools;
3. Consider the financial and planning implications charter schools have for the surrounding school district, or
4. Establish a framework for charter school collaboration and the dissemination of best practices.

Improving the Relationship Between Charter Schools and School Districts

There is an inherent tension between local school districts and the charter schools because charter schools redirect state tax dollars away from local school districts.

Case Study: Philadelphia and Financial Tension

In 2011, in response to unprecedented education budget cuts, the School District of Philadelphia announced a proposed education budget eliminating full-day kindergarten and student transportation services for nearly all traditional public school students, a reduction of the per-pupil spending and the elimination of thousands of teaching and support staff positions. At the same time, the District announced that it would be forced to continue to provide transportation services and maintain the per-pupil funding level for charter school students due to of state mandates. This imbalance created a hostile environment for charter schools, or in some cases, a feeling that families must send their children to a charter school to ensure they continued to receive transportation.

On June 30, 2011 the final budget passed, reducing the Philadelphia School District's per-pupil funding allotment by more than \$500, while maintaining the charter school per-pupil payment as required by state law. Additional financial resources contributed by the city through a tax increase saved transportation for public school students. However, the state budget that eliminated the charter school reimbursement school districts received to compensate for the added costs districts incur because of charter schools. The elimination of the charter school reimbursement, in part, contributed to the District eliminating additional staff positions, closing two parent resource centers and eliminating some in school suspension programs, among a number of other cuts.

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Pennsylvania's charter school funding formula takes the average cost to educate a student in a given district and then permits the school district to deduct costs for transportation and other expenses. The balance, which on average statewide is about seventy percent of the starting average cost per student, is sent to the charter school.

Financial Tension: The current funding formula creates a conflict between traditional public schools and charters because of the financial impact on both the local school district and the charter school. When one student leaves a public school, expenditures for capital projects, maintenance, administration, utilities and other administrative costs remain constant for that school. Moreover, when a student transfers from a private school to a charter school, the local school district realizes no savings and is forced to incur new costs.³

At the same time, the funding amount that is redirected away from the local school district for charter schools is not fully recouped by charters in Pennsylvania. For example, charter schools are not provided facilities funding, so many charters secure some of their facilities money from their per-pupil operating funds or try to raise additional money from other sources. The financial tension between traditional public schools and charters is exacerbated by the number of students leaving traditional public schools for charter schools. In Philadelphia, 1 out of 5 students attended a charter school in the 2010-11 school year. That number is projected to grow in the future, which will continue to redirect funds away from traditional public schools and place pressure on charter schools to find facilities to accommodate an increased student population.

The major problem with the funding formula, coupled with the move toward charter school expansion, is that charter schools generally struggle with the same academic performance issues that plague traditional public schools. One of the ideas behind charter schools was that educational accountability would be achieved through parents voting with their feet if their children's needs were not being met. It was believed that poor performing charter schools would close because students would leave. Likewise, poor performing traditional public schools would close or strengthen their academic programs, spurred on by competition.

This concept has not worked in practice because parents often choose charter schools for non-academic reasons, such as school safety concerns. While traditional public schools must serve all students, charter schools provide safer school options because they generally serve fewer students; they may benefit from different attitudes of families enrolling their children in charters and teachers opting to teach in charters. Charter schools also often have strong school climate programs. This creates a system of more schools, less money and too few academic gains for either traditional public schools or charter schools.



PCCY's Recommendations

The recommendations presented below have been developed with input from several public education advocacy organizations, charter school stakeholders, a review of charter legislation in other states and analysis of empirical research. The recommendations are intended to serve as starting points for what we hope will be a thoughtful dialogue that addresses how Pennsylvania's charter school law can be improved to better serve Pennsylvania's children.

Under the current funding framework, traditional public schools and charter schools are caught in a financial catch-22. Public schools should not be financially responsible or compromised by a state charter school initiative over which they have no control. Likewise, charter schools should not be compromised by inadequate pupil and facilities funding. Under the current funding framework, neither school model can perform optimally and the primary purpose of charter schools-innovation and sharing of best practices-cannot be realized.

An equitable funding formula should be devised before considering any legislation that would expand charter schools.⁴ A strong system would hold school districts financially responsible for a set percentage of student funding, and require that the majority of funding come from the state and federal governments. A stronger funding formula would also require charter schools to prepare budgets that reflect the type of program being offered (e.g., elementary, middle, high school) and the needs of the student body, (e.g. low-income, special education, English language learners).⁵

The legislature must acknowledge that school safety and program offerings are valid reasons for a parent to choose a charter school, but it is their job to ensure that charter school students also receive a solid academic education. Charter schools are just that-schools-and any new legislation creating new models should be crafted to ensure that the students they serve are making academic gains. Schools unable to do so should be closed.

Legislative and Policy Recommendations

Pennsylvania charter school legislation should strike a balance between the autonomy charter schools need to innovate in delivering high quality education and the transparency and accountability taxpayers, parents, students and staff need to ensure that public funds for charter schools are spent wisely in support of educational quality. To find this balance, PCCY has identified three legislative and policy elements that we believe are essential for effective charter school law reform in Pennsylvania. The legislation should:

1. Strengthen the Authorizer and Oversight Body;
2. Create Effective Charter Support Resources;
3. Facilitate the Sharing of Best Practices.

Pennsylvania's charter school legislation and implementation of that legislation must create a cohesive system of schools. When one part of the system is not performing optimally, the whole system is negatively impacted.

1. Strengthen Charter School Authorization and Oversight

A quality charter school authorizer is one of the primary elements of a successful charter school system in a state. In Pennsylvania, local school districts and state education agencies authorize charter schools. In Philadelphia, the School Reform Commission ("SRC") acts as the charter school authorizer for the district.⁶

Recommendation #1: Establish a Clear Charter School Operator Application Process

Whether authorization remains in the hands of local school districts or is expanded to institutes of higher education and/or an independent state commission, the authorizing body must develop a comprehensive and consistent application process.

Shortcomings of the Proposed Legislation: The proposed legislation does not set forth any performance criteria to evaluate an applicant or require an applicant to demonstrate a record of serving student populations or academic achievement. The bills actually remove two current accountability requirements from the charter application: (1) demonstrated conformity to the legislative intent of the charter school law and (2) ability to serve as a model for other public schools.

PCCY Recommendations: The application process should include clear application questions and guidance; follow a fair, transparent procedure and rigorous criteria; require applicants to demonstrate conformity to the legislative intent of the charter school law and ability to serve as a model for other public schools; and grant charters only to applicants who demonstrate a strong capacity to establish and operate a quality charter school. Authorizers should use the same criteria to evaluate all applications.

Fast Facts About Charter School Authorizers Around The Country

- Charter school authorizers are charged by state law to approve and oversee the performance of charter schools.
- State laws differ regarding the type and number of authorizers allowed (school districts, universities, state boards of education, municipalities, independent charter boards, or other institutions).
- Charter school authorizers are responsible for evaluating applications to start and operate a charter school, negotiating a contract with an approved charter school that defines the specific operating terms and performance expectations for which the charter school will be held accountable.
- Charter school authorizers conduct ongoing oversight, monitor compliance, enforce contract terms and encourage the creation of quality public school options.

Recommendation #2: Establish a Clear Performance Framework

The authorizer(s) must develop a comprehensive performance framework that is consistently applied to all charter schools. The framework must include academic performance and non-academic performance standards and a measure of the school's unique mission.

Shortcomings of the Proposed Legislation: The proposed legislation does not set forth any academic performance standards and decreases the performance criteria charter applicants currently must meet in their initial application. The bills also treat all charter schools the same, whether they are high or low-performing, regarding application procedures, renewal periods, and school replications and conversions.

PCCY Recommendations: A strong accountability framework would include measures of rigor (a school's test scores, AYP and benchmark comparisons) and momentum (growth over a three-year period among all student demographic groups), non-academic standards that measure a school's financial and governance structure, student engagement (continuous enrollment/attrition measure) and a measure of whether the school is meeting its stated unique mission.



By combining academic performance, non-academic performance standards and a measure of the school's unique mission, the framework would provide a more comprehensive performance management construct to assess school progress than any one metric alone. An academic performance framework that measures test scores and growth across all student groups rewards schools not only for doing well on the tests and for making gains, but for doing so with the students they enroll.



The legislation should also provide incentives for high-performing charter schools. One way to achieve this would be separating schools into categories based on their performance (high status-high growth; high status-low growth; low status-high growth; and low status-low growth). Similar to the systems employed by the District of Columbia Public Charter School Board and Massachusetts, a charter school's placement in one of those categories would determine how the school would be evaluated during its next renewal cycle. Incentives should be provided for charters falling into the first two categories (allowing for a common board and application for schools wishing to replicate, or an abbreviated renewal process, etc.), rather than treating all charters the same, regardless of performance levels. Charter schools falling into the lower categories would receive increased support and oversight.

Recommendation #3: Establish Clear Student Enrollment and Retention Procedures

Legislation and the authorizing body or bodies charged with implementing the legislation must establish clear student recruitment, enrollment and lottery procedures to be followed by all charter schools and minimum standards for student retention.

Shortcomings of the Proposed Legislation: The proposed legislation does not do enough to prevent charter schools from implementing policies and practices that deliberately or unconsciously exclude or push out certain groups of students.

A common complaint voiced by some parents, public schools teachers and charter schools themselves is that students with disabilities, behavioral problems or English language status have been pushed or "counseled" out of some charter schools. Research also confirms that charter schools enroll far fewer English language learners and disabled students.

PCCY Recommendations: The charter school law should establish strong enrollment procedures that include a uniform application that must be used by all charter schools. A uniform application would prevent charter schools from requesting additional information, such as essays or interviews, during or after the lottery process. Requiring extra information from charter school applicants may exclude families who do not have the time, resources or educational background to complete essays or in person interviews. Massachusetts' charter school legislation, for example, prohibits charter schools from requesting additional information outside of the uniform application.

Strong retention procedures would also require the authoring body or bodies to monitor whether students are being pushed or "counseled" out of charter schools by tracking the schools' attrition numbers. The authorizing body or bodies should also monitor the percentage of students with special needs and English language learner status, compared to the percentage in the surrounding school district, along with the characteristics of the accepted and matriculated student populations.

Recommendation #4: Establish a Clear Process for Renewal and Nonrenewal

Legislation and the authorizing body or bodies must create clear renewal and school closure and dissolution procedures to be used by all authorizers.

Shortcomings of the Proposed Legislation: The proposed legislation extends the charter renewal period from 5 to 10 years. Research and common sense show that longer charter terms are more likely than shorter terms to allow low-performing schools to stay open. Experience from other states reveals that authorizers that use five-year terms close 3.6 percent of their schools annually compared to authorizers that use terms of 10 years or longer, which close 1.5 percent of their schools annually.⁷ The fact that authorizers can close poor-performing charter schools at any time is not a sufficient protection because only 1% of charter schools are closed outside of their renewal period.⁸

PCCY Recommendations: Legislation should ensure that charter schools continue to come up for reauthorization every five years. Recognizing that the charter school renewal review is an extensive process for both charter schools and authorizers, charter schools with a history of high performance should be rewarded with an expedited review. Likewise, recognizing that a large number of charter schools may not succeed, charter school legislation should require charter schools to include a closure plan in their initial application. New York, for example, requires charter school applicants to submit a school dissolution plan in their initial application.

Recommendation #5: Analysis of Local School District Impact

The proposed legislation must ensure that any authorizing body or bodies is cognizant of the impact new charter schools or traditional public school conversions will have on the surrounding school district.

Shortcomings of the Proposed Legislation: The proposed legislation would allow universities and an independent state commission to authorize and renew charter schools and convert traditional public schools into charter schools, without the involvement of, or consideration of the impact on, the local school district. Bypassing local school districts in the authorization, renewal and school conversion decision-making process and the simultaneous failure to consider the impact of new charters or conversions in those districts could cause financial and logistical chaos.

Districts where there are large numbers of charter schools would be severely impacted if there were no consideration of the impact of charters on the district.

Case Study: District of Columbia

The District of Columbia Charter School Board is a model authorizer that has developed what is considered nationally to be a ground-breaking model for charter school accountability. The Board utilizes a performance management framework (“PMF”) that evaluates every charter school on the same performance criteria, while appreciating and rewarding the individuality that defines charter schools.

These measures include absolute student achievement as well as student growth performance measures, indicators of readiness for high school and college, and mission-specific measures at each school. Evaluations of non-academic measures, including governance, compliance with local and federal laws and financial management are also considered.

PCCY Recommendations: Legislation should require any non-district authorizing body to analyze and consider the impact new charter schools will have on local school districts. Further, we recommend that the analysis be provided to such school districts to assist them in planning and school reconfiguration decisions. Other states with multiple authorizing bodies, such as New York, have dealt with this issue by requiring charter school applicants to provide an analysis of the impact a charter school would have on the surrounding school district. Likewise, in New York, the only approved authorizer of applications to convert a traditional public school into a charter is the local school district where the charter would sit.⁹

Recommendation #6: Political Insulation

The legislation must minimize the impact of political influence on charter authorization, conversion and closure decisions. While political influence cannot be entirely avoided because charter schools are publicly funded, it is exacerbated when public officials sit on charter school boards.

Shortcomings of the Proposed Legislation: Despite pressure from education advocates and a number of charter operators, the proposed legislation does not prevent political figures from serving on the boards of charter schools. The political appointment structure of the proposed independent state commission is also cause for concern. Currently, the proposed commission would have seven members, appointed as follows:

Governor and Majority Appointments	Minority Appointments
<ul style="list-style-type: none"> • Member of the State Board of Education (Governor) • Faculty member or administrator of an institution of higher learning (Governor) • School Board Member (Governor) • Administrator or Board of Trustee member of a charter school. (Senate Majority Leader) • Member of the business community (House Majority Leader) 	<ul style="list-style-type: none"> • Certified teacher (Senate Minority Leader)* • Parent of a school-aged child (House Minority Leader)* <p>*Minority, Democrat appoints if a bill is passed in 2011-2012</p>

Aside from position titles, the bills provide no additional qualifications for the commission members who will be tasked with overseeing the majority of Pennsylvania’s charter schools. Moreover, there is the potential for a power disparity between the minority appointments—a teacher and parent—and the other four commission members.

PCCY Recommendations: Charter legislation and the implementation of that legislation should mitigate the power of political influence on charter school authorizers. The legislation would be strengthened if political office holders were not allowed to serve on charter school boards. Political influence would also be minimized if there were a clear performance framework that would provide strong data to support the decisions of the authorizing body. With clearer data, there is less room for political interpretation and influence. Finally, any independent statewide commission tasked with overseeing charter schools should have clear membership qualifications.



2. Effective Charter Support Organizations

Effective charter school support organizations and/or resources are vital to assisting charter schools navigate the rough terrain of starting and operating a charter school. A common concern voiced by charter school stakeholders was the lack of support and constructive feedback from the authorizing body, which made it difficult to improve their schools and meet their charter goals. Under Philadelphia's current model, charter schools are evaluated by SchoolWorks, an independent education consulting organization, under the SchoolWorks Quality Review (SQR) model. The SQR evaluates charter schools and measures the school's performance against a set of research-based criteria in order to identify strengths and areas for improvement. The missing link in this evaluation is guidance for charters looking to strengthen areas that have been marked for improvement. Charter schools are left with a list of their shortcomings, with no direction as to how they can improve upon those deficiencies.

Case Study: New York

New York provides a model for providing charter school support. The New York City Charter School Center is an independent, not-for-profit organization, established in 2004. The Charter Center helps new schools get started, supports existing schools, helps schools improve operations and reduce costs, builds community support, and provides leadership training.

Although a charter school support center in Pennsylvania would be ideal, many other states and authorizers with limited resources still provide charter schools with support and resources. The District of Columbia, for example, provides feedback to charter schools accompanied by a list of resources that will assist them in responding to the feedback. Those resources may include books, videos, workshops or local or national resources for charter schools. In Pennsylvania, any authorizer tasked with overseeing charter schools should provide constructive feedback and suggestions as to how that feedback can be implemented.

3. Sharing of Best Practices

One of the primary principles behind the concept of charter schools is that they would serve as educational laboratories. Unlike traditional public schools, charters are given the freedom to innovate and then share successful strategies with traditional public schools.

In Pennsylvania, the intent of the charter school law specifically states charters are meant to improve student learning for "all children," presumably through the sharing of best practices. Unfortunately, we have not seen the sharing of best practices imagined when charters were introduced more than a decade ago.

Case Study: Massachusetts

Massachusetts is a strong model of district and charter school collaboration. In Massachusetts, charter schools across the state collaborate with district school teachers and principals to share best practices. For example, Prospect Hill Academy, a charter school, works with two public schools to share the success of its Upper School math program.

The charter school's staff members developed and published a guidebook and led a week-long summer institute attended by 23 teachers from all three schools. The Massachusetts Charter School Office has also created a searchable database of best practices by charter public schools and shared with district schools.¹⁰

In order for the promise of charter schools to be realized, we must develop a collaborative environment between charter schools and traditional public schools. In order to fulfill the vision of charter schools, charter school legislation and authorizing body or bodies should focus on distributing the best practices of all schools. An ideal system would include direct collaboration between charter schools and traditional public schools, an online resource database, and an analysis of best practices of high-achieving charter schools.

Conclusion

The movement toward school choice presents a unique opportunity to evaluate our current education models and craft real solutions to issues that have plagued Pennsylvania's schools for years. A strong charter school law is a critical component to successful charter schools, traditional public schools and the future success of thousands of Pennsylvania's children.

For the reasons set forth in this brief, PCCY believes a strong charter school law should include the following four principles and practices:

1. An Understanding of the Complex Relationship between Charter Schools and School Districts;
2. A Strong Authorizer and Oversight Body;
3. Effective Charter Support Resources; and,
4. Effective Sharing of Best Practices.

True reform will work towards a system where all schools and students co-exist, share successes and flourish. Strengthening Pennsylvania's charter school law is an important step in ensuring charters fulfill their promise, that the students who attend charters are able to fulfill their promise and that traditional public schools are able to benefit from charter school innovation.

Footnotes

¹ This paper discusses brick and mortar charter schools, not cyber charter schools. Combined, brick and mortar charter schools and cyber charters educate more than 61,000 students in Pennsylvania. See Charter School Performance in Pennsylvania (April 2011) at http://credo.stanford.edu/reports/PA%20State%20Report_20110404_FINAL.pdf

² See Senate Bill 904 (S.B. 904) and House Bill 1348 (H.B. 1348). The bills are identical in substance and would repeal the current charter school/cyber charter school law (24 P.S. §§ 17-1701-A-17-1751-A).

³ Report of the Massachusetts Associations of School Superintendents Charter School Task Force: Beyond Discord: Resolving the Tensions between Charters and Public Schools (2005).

⁴ The bills introduced in the House and Senate would create a committee to examine charter school funding. The committee would evaluate and make recommendations on the charter funding formula, special education funding, transportation costs, and charter school eligibility to receive grants, among other things. PCCY believes this analysis should take place before new legislation is passed, and the analysis must include the financial impact charter schools have on local school districts.

⁵ Ibid.

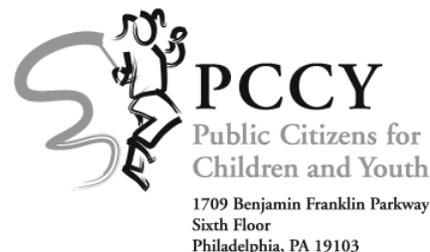
⁶ Unlike other school districts in Pennsylvania, the School District of Philadelphia is governed by the five-member School Reform Commission. The commission was established in December 2001, when oversight of the district was assumed by the Commonwealth of Pennsylvania.

⁷ National Association of Charter School Authorizers: The State of Charter School Authorizing 2010 (2011), Page 4. http://www.qualitycharters.org/images/stories/publications/2010_facts_report.pdf

⁸ Ibid.

⁹ A conversion charter school is a charter school that is established by converting an existing public elementary or secondary school into a charter school.

¹⁰ <http://www.masscharterschools.org/schools/cdcollaborate.html>



About PCCY: Founded in 1980, Public Citizens for Children and Youth (PCCY) serves as the region's leading child advocacy organization and works to improve the lives and life chances of its children. Through thoughtful and informed advocacy, community education, targeted service projects and budget analysis, PCCY seeks to watch out and speak out for children and families.

PCCY undertakes specific and focused projects in areas affecting the healthy growth and development of children, including child care, public education, child health, juvenile justice and child welfare.

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