



PHILADELPHIA
1315 Walnut Street, Suite 400
Philadelphia, PA 19107-4717
T 215-238-6970
F 215-772-3125

PITTSBURGH
429 Fourth Ave, Suite 702
Pittsburgh, PA 15219
T 412-258-2120
F 412-467-8940

November 24, 2014

Carolyn Dumaesq, Acting Secretary
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126

Dear Secretary Dumaesq:

The Education Law Center is a non-profit legal advocacy organization which works to ensure access to a high quality public education for Pennsylvania's most vulnerable students – students with disabilities, English language learners, students in poverty, minority students, students experiencing homelessness, and students who have been placed in the foster care system. We write to express our deep concern about the three pending applications for cyber charter school authorizations. For the reasons stated below, we urge the Department to reject all of the applications.

The problems with Pennsylvania's cyber charters are not new. In 2011, the Center for Research on Education Outcomes (CREDO) at Stanford University conducted *the largest study ever completed of cyber charters schools. The study's conclusion about Pennsylvania cyber schools was devastating: "What we can say right now is that whatever they're doing in Pennsylvania is definitely not working and should not be replicated."* Yet, the Pennsylvania Department of Education is being asked to do exactly that – to replicate and expand a system that is failed, unaccountable to the public, and potentially rife with profiteering and fraud.

Over the last ten years, Education Law Center attorneys have represented dozens of children attending cyber charter schools and we have encountered a range of improper enrollment practices, inadequate special education and ELL services, and poor overall academic outcomes. We have seen how the churn of students in and out of cyber charter schools has wreaked havoc on educational stability for thousands of students each year. We have witnessed the general lack of accountability for the vastly inferior academic instruction students receive in cyber charter schools. And we have seen appalling violations of the public trust by cyber charter operators and the waste of taxpayer funding designated for public education, funding that is squandered on marketing, advertisements, and private for-profit contractors.

1. Cyber charter schools are academic failures. Students enrolled in cyber charters are, year after year, performing miserably under the state's system for measuring

school performance. The state's School Performance Profiles (SPPs), released earlier this month, show that cyber charters remain among the very lowest-scoring public schools in the commonwealth, even when accounting for student demographics. Based on analysis of the state's data by Research for Action (RFA), **all 14 cyber charters had scores that fell in the lowest 21 percent of nearly 3,000 Pennsylvania public schools.** In fact, more than half of the state's cyber charters fell in the bottom three percent of all schools statewide. Not one cyber charter school had an SPP score of 70 or above -- the state's basic threshold for satisfactory school performance.

2. Cyber charter education is an inefficient and unaccountable use of tax dollars. Past data revealed intolerably high turnover rates of students who leave traditional public schools only to return a year later, having lost a year of academic growth. Last year, Research for Action attempted to analyze cyber charters' student transfer rates, considering the significant link between student transience and academic outcomes. But basic information on transfers was available for just five of 13 cyber charters operating that school year. Moreover, no similar publicly available data exists for any cyber charter for the 2013-14 school year. **In a report released earlier this year, Auditor General Eugene DePasquale strongly criticized both the availability and quality of charter-school reporting.**

3. The current cyber charter funding formula is fundamentally flawed. Dozens of school districts in urban, rural, and suburban communities are in severe financial distress, partly because of the drain on their budgets from students enrolling in cyber charters. **Both former state Auditor General Jack Wagner and the Task Force on School Cost Reduction have concluded that school districts are overpaying cyber charter schools because the existing formula structure is based on the cost to educate a student in his/her home school district, not the actual cost to educate the student through cyber education, which is much less.** During 2013, public funding for cyber charters topped \$360 million -- at least \$105 million of which could have been recovered under a more rational funding system, according to the state's former auditor general.

4. Taxpayers should not be required to pay for a system that permits profiteering and personal gain by cyber operators and the for-profit companies that run them. There have been major indictments of the leadership of both of the largest cyber charter operators, including the founder of the Pennsylvania Cyber Charter School and the founder and former head of the Agora Cyber Charter. As taxpayers continue to dig out of the massive waste and on-going legal fees still being paid with public funds, it is all too vividly clear that, years after these cyber operators were criminally indicted, the problems continue.

5. Because there is no cap on enrollment for the existing cyber charter schools, authorizing new cyber charter schools is unnecessary. There is no need for the authorization of new cyber charters, given that there is no enrollment cap on the current ones. Pennsylvania already has among the highest number of cyber charter students in the nation, and enrollment is steadily growing every year. The intent of the charter school law is to improve learning, provide for greater innovation, expand choices, and

increase accountability. *See* 24 P.S. § 17-1702-A. Our current cyber charters are not improving learning and they are not being held accountable for their poor results. The addition of new cyber charters will not add anything new; rather, it will perversely harm the existing choices within our system by draining funds away from the thousands of regular district schools and brick-and-mortar charter schools that are properly serving our state's children.

In light of the above serious problems with the current state of cyber education in the Commonwealth, authorizing additional cyber charters would clearly violate the state constitution's requirement that the state maintain and support a "thorough and efficient system of public education to serve the needs of the Commonwealth." Accordingly, we call on the Secretary to deny all cyber charter applications and, instead, focus resources on ensuring accountability for our current cyber charter operators.

Sincerely,

A handwritten signature in purple ink, appearing to read 'Rhonda B.', with a long horizontal flourish extending to the right.

Rhonda Brownstein, Esquire
Executive Director