



Education Law Center

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Marlene Kanuck
Bureau of Teaching and Learning
Pennsylvania Department of Education
333 Market Street, 5th Floor
Harrisburg, PA 17126-0333
Re: Hearing Testimony on Cyber Charter School Applications

Dear Ms. Kanuck,

I am writing on behalf of the Education Law Center of Pennsylvania. The Education Law Center is a non-profit legal organization which advocates for access to a quality public education for Pennsylvania's most vulnerable children. In the last ten years, we have heard from many students attending cyber charter schools and their families and have tracked troubling practices by some of the cyber charter schools currently in operation.

We believe that the Pennsylvania Department of Education ("Department") should not approve any of the eight pending cyber charter applications. We have three main reasons for opposing cyber charter growth at this time. First, the academic performance of the existing cyber charter schools raises serious questions about the ability of such programs to enable students to meet Pennsylvania's academic standards and this performance should give the Department great pause before authorizing any additional cyber charters. Second, it would be an inefficient use of tax dollars to authorize more cyber charters at this time as they lack accountability, have a flawed funding scheme, and create an incentive for monetary gain. Lastly, we have significant concerns about the Department's ability to actively monitor more than the current number of cyber charter schools.

Cyber Charters Will Not Enable Students to Meet Academic Standards

Under the regulations authorizing cyber charter schools, the Department is required to evaluate the extent to which the programs outlined in each application will enable students to meet the state academic standards in 22 Pa. Code Ch. 4. Given the general lack of peer-reviewed research on the efficacy of virtual schooling and given the actual performance of Pennsylvania's existing cyber charter schools, it is unlikely that future cyber charter schools will be able to ensure that all students will meet Pennsylvania's academic standards.

Currently, there is no high quality research evidence that full-time virtual schooling at the K-12 level is an adequate replacement for traditional face-to-face teaching and learning.¹ In contrast, there is clear evidence that Pennsylvania's existing cyber charter schools are failing to provide students with quality educational experiences. In fact, for every measure of student achievement, cyber charter schools perform worse than traditional public schools.

In April 2011, the Center for Research on Education Outcomes (CREDO) at Stanford University found that although students in cyber charter schools in Pennsylvania tended to have higher test scores when *entering* cyber charters, the academic performance of cyber charter school students was lower when compared to the academic performance of the students in brick and mortar charter schools.² The results were even more dismal when cyber charters were compared to traditional public schools. The CREDO study found that in both reading and math, all eight cyber schools operating in Pennsylvania at the time performed significantly worse than their traditional public school counterparts. Devora Davis, the CREDO Research Manager, stated: "What we can say right now is that whatever they're doing in Pennsylvania is definitely not working and should not be replicated."

Graduation rates and Adequate Yearly Progress (AYP) further demonstrate that cyber charters fail to provide a thorough education. Of the twelve Pennsylvania cyber charter schools in operation during the 2011-2012 school year, only one made AYP. During the 2010-2011 school year, only two cyber charters achieved AYP while 94 percent of school districts in Pennsylvania made AYP. At least five cyber charter schools have failed to make AYP for the last three consecutive years. Additionally, a national study released by the National Education Policy Center at the University of Colorado concluded that cyber schools across the country that use the K12 curriculum (which includes two current Pennsylvania cyber charters and two current cyber charter applicants) are performing much worse than traditional public schools. The report found that just 27.7 percent of K-12 schools in the

¹ Gene V. Glass and Kevin Welner, Online K-12 Schooling in the U.S.: Uncertain Private Ventures in Need of Public Regulation, *available at* <http://nepc.colorado.edu/files/NEPC-VirtSchool-1-PB-Glass-Welner.pdf>

² Center for Research on Educational Outcomes (CREDO), Charter School Performance in Pennsylvania, April 2011, *available at* http://credo.stanford.edu/reports/PA%20State%20Report_20110404_FINAL.pdf

study met the standards for AYP in 2010-2011, compared with 52 percent of public schools.³ In addition, only one of the twelve cyber charter schools in existence in 2011-2012 exceeded the state's average graduation rate of 83 percent. We believe the large difference in student progress between cyber charter schools and brick-and-mortar schools warrants attention and is a reason to defer any further cyber charter growth.

Education researchers have urged states to first analyze why the performance of students in cyber schools suffers and how it can be improved before undertaking any measures to expand this model of schooling.⁴ We also urge the Department to heed this advice.

The state must also consider whether the current applicants are capable of enabling their targeted student populations to meet Pennsylvania's academic standards. The National Association of Charter School Authorizers notes that not all students are suited to cyber learning and advises that authorizers should carefully consider if the students targeted by a particular program are likely to succeed and thrive in an online learning environment.⁵ They recommend that authorizers examine rigorous evidence of the program's academic success with similar students.

A number of the current cyber charter applicants intend to serve at-risk Pennsylvania students. It is essential for the Department to examine if such students are likely to succeed in cyber charter schools and if these providers have successfully met the needs of analogous student populations with previous endeavors. We are not aware of any research showing that cyber learning is appropriate for at-risk students.

Cyber Charter Education Is an Inefficient Use of Tax Dollars:

We believe that it would be an inefficient use of tax dollars to authorize more cyber charters at this time for three reasons.

Accountability:

First, it is crucial for the Department to critically evaluate whether the existing cyber programs are effectively serving all students. It is worth noting that the Department's last independent analysis of cyber charter schools was carried out over ten years ago in 2001.⁶ One outstanding question which must be addressed is the turnover rate of students

³ Gary Miron and Jessica L. Urschel, Understanding and Improving Full time Virtual Schools, 7, available at <http://nepc.colorado.edu/files/nepcrbk12miron.pdf>

⁴ *Id.* at vii.

⁵ Margaret Lin, "An Update of "Authorizing Virtual Charter Schools: Rules of the Road on the Digital Highway" Authorizing Matters Issue Brief, (Oct. 2011), 2-3.

⁶ KPMG Consulting, Cyber Charter Schools Review (October 30, 2001), available at http://www.portal.state.pa.us/portal/server.pt/community/annual_reports_and_statistics/7357/2001_independent_cyber_charter_school_review/508162

attending cyber charters. Education research and anecdotal stories point to the fact that many cyber charter students attend these programs temporarily and ultimately return to district schools academically further behind their peers.⁷ If this is truly the case, the state is funding an unnecessary and ineffective duplicative system.

Flawed Funding Formula:

Second, it would not be financially prudent for the Department to authorize additional charter schools under the current funding formula. The state has acknowledged that the current funding formula for cyber charter schools is flawed. Both 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 costs less given the lack of a physical school structure. No additional cyber charters should be authorized until the system is made efficient by paying cyber charter schools based on their actual education costs.

Monetary Gain:

Third, we are deeply troubled that the current governance structure for cyber charter schools has allowed individuals and entities to make a profit from public education in Pennsylvania on the backs of taxpayers. It is inefficient and wrong for taxpayers to continue to pay for a system of cyber charter schools which creates an incentive for profitable or personal gain. Many of the existing cyber charter schools receive payment for enrolled students even if these students are not logged into class, and there is little incentive for new cyber charter schools to actively combat this problem.

Additionally, a handful of cyber charters have unreserved, undesignated fund balances in the excess of 25 percent whereas school districts are prohibited by statute from having a cumulative unreserved fund balance of more than 8 percent to 12 percent of their annual expenditures. Pennsylvania has more cyber charter schools than any other state in the country, and some existing cyber charters have funneled money to for-profit companies.⁸ Eight additional cyber charters would only increase this problem.

⁷ See e.g., Miron & Urschel, at 8, (noting that many families approach virtual schools as a temporary service and that K12's own school performance report indicated that half of parents intend to keep their students enrolled for two years or less).

⁸ See e.g., Rich Lord and Eleanor Chute, *Cyber Charter is a Magnet for Money*, PITTSBURGH POST-GAZETTE (July 17, 2012), available at http://www.philly.com/philly/news/20120716_Cyber_charter_is_a_magnet_for_money.html; Rich Lord, *PA Cyber Connections Prompt Inquiry*, PITTSBURGH POST-GAZETTE (July 17, 2012), available at <http://www.post-gazette.com/stories/news/education/pa-cyber-connections-prompt-inquiry-648675/>;

Concerns about the Department's Ability to Actively Monitor a Large Number of Cyber Charters

We also have significant concerns about the Department's ability to actively monitor more than the current number of cyber charter schools. The Department is required by state law to annually review cyber charter schools for student performance problems and revoke cyber charters not meeting student performance standards. 24 P.S. §§17-1741-A (3); 17-1742-A (2). Currently, only one cyber charter school is making AYP under state academic standards for student performance.

There is a very serious question as to whether the Department has the capacity to adequately review the student performance of cyber charters in order to make its mandatory revocation decisions for failing schools. Authorizing new cyber charter schools at this time would risk placing the Department in violation of its statutory duty to annually review and revoke cyber charters with student performance problems. The Department does not appear to have the current capacity to handle these legally mandated and very important oversight and accountability functions.

For all of the above reasons, we recommend the Secretary and the Department apply a twelve month moratorium on granting additional cyber charters.

Sincerely,
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Stephanie Saul, *Profits and Questions at Cyber Schools*, THE NEW YORK TIMES (Dec. 12, 2011), available at <http://www.nytimes.com/2011/12/13/education/online-schools-score-better-on-wall-street-than-in-classrooms.html?pagewanted=all>; PR Newswire, *PA Department of Education Halts Payments to Agora Cyber Charter School, Citing Fraud and Improper Use Funds*, available at <http://www.prnewswire.com/news-releases/pa-department-of-education-halts-payments-to-agora-cyber-charter-school-citing-fraud-and-improper-use-funds-62075452.html>