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**HOUSE OF REPRESENTATIVES**  
COMMONWEALTH OF PENNSYLVANIA  
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Pennsylvania Department of Education  
Secretary Pedro Rivera  
333 Market Street  
Harrisburg, PA 17126

May 10, 2016

Dear Secretary Rivera –

I trust you are well today.

I write in the hope that you can clarify the policies of the Pennsylvania Department of Education (PDE) as it relates to payments to public Charter Schools.

In past years, school districts completed a PDE-363 form by August 31 to calculate the tuition rates for students attending a charter school. It is my understanding that many districts no longer complete the PDE-363, as PDE has advised the districts to utilize tuition rates calculated by PDE when Annual Financial Reports are finalized. These rates, generally published nine months into the school year, are then be used to reconcile payments made by districts to charters. Charters who received too much money would need to send money back to the district, and vice-versa. It is my understanding that this reconciliation process generally took place in the July to October timeframe. If a district owed money to a charter, PDE would, as required by state law, forward these funds to the charter and withhold as necessary from the district's state appropriation.

With the aforementioned in mind, could you advise on the following:

- 1) Why has PDE advised districts that completion of the PDE-363 is no longer necessary?
- 2) A March 7, 2016 letter from PDE states that the state will no longer perform the end of the year reconciliation process. It also states that "the Department will not be withholding funds related to the documentation submitted by charter schools because there are no 2014-15 funds from which to withhold." How does PDE intend to fulfill the law requiring the state to make up payments to charters withheld by districts?
- 3) It seems to me that the current interpretation of the law and court cases by PDE sets up an untenable situation for a charter school. If I understand correctly, charters have the time period between the date PDE releases the AFR in the spring until the end of the school year to obtain reconciliation funding from a school district. If the district refuses to pay

additional funds as demanded by the reconciliation process, the charter only has until the end of the state fiscal year, June 30, to request funding from PDE as required by the law. Once this date passes, PDE will not take any action regardless of the amount of the discrepancy. Doesn't this place a PDE in an exceptionally powerful position to simply "wait out the clock" until June 30?

- 4) PDE maintains that a charter school can only request current fiscal year funding not received from a school district, but that such a request can only be made after PDE determines AFR. If a charter notifies PDE of a funding shortage from a given school district but PDE has already distributed all state funds to that district for the fiscal year, how will PDE comport with the law requiring PDE to make payment to the charter school?
- 5) If PDE receives a request for payment from a charter school, but neglects to act in a timely fashion and the June 30 fiscal year deadline passes, does PDE maintain that such a PDE delay results in the charter school being ineligible to receive these reconciled dollar amounts? It seems incredible to me that a delay in response from a government agency could result in the loss of a payment otherwise demanded by law. To use an analogy, it would be similar to PennDOT refusing to pay for road repairs that have already been completed, simply because the next fiscal year started.
- 6) Under these policies, it seems to me that a charter school that has not received funding from a school district, or PDE in its backstop role, has no remedy. Using this tortured logic, it would be to the advantage of districts and the state to *never* pay any charter school.
- 7) Under the situation outlined in Question #6, would PDE expect a charter school to file suit for payment?

I look forward to receiving your response with regard to these questions. Thank you for your continued service to the people of Pennsylvania.

Kind Regards,



John Lawrence  
State Representative  
Commonwealth of Pennsylvania

Cc: The Honorable Stan Saylor, Chairman, House Education Committee  
The Honorable Lloyd Smucker, Chairman, Senate Education Committee  
The Honorable Andrew Dinniman, Minority Chairman, Senate Education Committee  
Affected Parties