

Pennsylvania Department of Education

Statement Regarding the Effect of the Pennsylvania Supreme Court Decision

January 4, 2012

The purpose of this communication is to update school districts and charter schools on a recent court decision and the resulting funding consequences for both.

On November 23, 2011, the Pennsylvania Supreme Court issued an order in the case of *Slippery Rock Area School District v. Pennsylvania Cyber Charter School*, regarding the enrollment of a 4-year-old kindergarten student in the cyber charter school. The issue was whether a student's resident school district must fund a 4-year-old kindergarten program offered by a cyber charter school when the resident school district does not offer such a program in its district schools. The Court concluded that a cyber charter school may set its own kindergarten entrance age; however, the resident school district is not required to pay the cyber charter school when the cyber charter school's policy is broader than the school district's policy. As a result of this decision, the Department of Education may not withhold funding from a school district for 4-year-old kindergarten students when the student's school district of residence would not permit them enrollment at that age.

If the Department of Education receives invoices or reconciliation reports from charter schools seeking payment for 4-year-old kindergarten students, the Department will not determine whether the resident school district offers a 4-year-old kindergarten program in its district schools, however. It is the responsibility of the charter school and school district to ensure that the information before the Department accurately reflects local school district enrollment policies. Therefore, the following requirements shall apply:

(1) When a charter school submits invoices and reconciliation reports to the Department seeking payment for its students, the charter school shall not include any 4-year-old kindergarten students who are residents of school districts that do not offer a 4-year-old kindergarten program.

(2) If 4-year-old students are included in a charter school's invoices or reconciliation reports, it is the responsibility of each school district to notify the Department of its objection to payment for 4-year-old kindergarten students enrolled in a charter school if the school district does not offer a 4-year-old kindergarten program.

Because the Court did not explicitly state that its decision was retroactive, the Department will process subsidy deductions from school districts and make payment to charter schools for any 4-year-old kindergarten students enrolled in charter schools for any time period prior to November 23, 2011. In addition, the Department will not provide refunds to school districts for deductions made from school districts and subsequent payments to charter schools for 4-year-old

kindergarten students enrolled in charter schools for any time period prior to November 23, 2011.

However, the Pennsylvania Cyber Charter School has asked the Court to clarify its decision and/or allow charter schools to receive payment for all 4-year-old kindergarten students for the entire 2011-2012 school year. Therefore, if the Court clarifies its decision and/or issues a new order that contradicts the Department's position as stated above regarding payment for 4-year-old kindergarten students, the Department will revise this Statement in order to comply with any new decision or order from the Court.

Questions concerning this e-mail should be directed to the Bureau of Budget and Fiscal Management, Division of Subsidy Data and Administration, at ra-CSFunding@pa.gov.