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August 8, 2022

Via Electronic Mail

Erin Burlew, Esquire
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

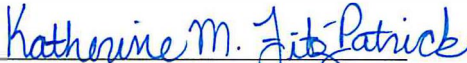
Re: Right-to-Know Law Appeal – Docket # AP 2022-1704
Susan Spicka v. Commonwealth Charter Academy Charter School

Dear Ms. Burlew:

On July 21, 2022, Commonwealth Charter Academy Charter School (CCA) received notice from the Office of Open Records (OOR) that it had received the above docketed appeal. The original deadline for submissions regarding this appeal was August 1, 2022. At the request of CCA, the deadline was extended to August 8, 2022.

This submission by CCA will serve to supplement the record pursuant to the notice of appeal, and to request that the appeal be denied.

Respectfully submitted,



Katherine M. Fitz-Patrick, Esq.

Philip J. Murren, Esq.

Ball, Murren & Connell, LLC

2303 Market Street

Camp Hill, PA 17011

Counsel for Commonwealth Charter Academy

cc: Susan Spicka (via electronic mail and U.S. Mail)

Enclosures

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS**

SUSAN SPICKA	:
Requester,	:
	:
v.	: Docket # AP 2022-1704
	:
COMMONWEALTH CHARTER	:
ACADEMY CHARTER SCHOOL,	:
Respondent.	:

COMMONWEALTH CHARTER ACADEMY’S RESPONSE TO RTKL APPEAL

I. PROCEDURAL HISTORY

On May 23, 2022, Susan Spicka (Requester) submitted a Right-to-Know Law (RTKL) request to Commonwealth Charter Academy Charter School (CCA). The Requester requested the following:

Copies of ALL ‘Community Class Registration Forms’ for the 2019-2020 and 2020-2021 school year that were submitted to CCA with the following UNREDACTED information:

- Course title:
- Number of time[s] the class meets:
- Start date:
- Cost of the class:
- Amount requesting for the reimbursement:

Along with the standard Right-to-Know Law Request Form, Ms. Spicka included a copy of the form referenced in her RTKL request.¹

By letter dated May 31, 2022, CCA notified the Requester that it required an additional thirty (30) days to respond to her request.

¹ The Community Class Registration Form is not a publicly accessible form. A parent/guardian or eligible student must be logged in to an edio account (CCA’s proprietary learning management system) or private Facebook group to obtain the form. *See* Exhibit A, Affidavit of Natasha Shane at ¶ 10.

On June 30, 2022, CCA denied the request because the requested records are exempt from disclosure under Section 708(b)(1), (6), and (15) of the RTKL. Pursuant to Section 708(d) of the RTKL, CCA provided aggregate data of the total community class reimbursement paid for the 2019-20 and 2020-21 school year.

On July 21, 2022, Requester filed an appeal of CCA’s response with the Pennsylvania Office of Open Records (OOR), using OOR’s Appeal Form. Requester did not specify in her appeal “the particular defects in an agency’s stated reasons for denying a RTKL request.” *Pa. Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429, 434 (Pa. Cmwlth. 2011).

II. FACTUAL BACKGROUND

CCA does not disclose personally identifiable information without prior written consent of a parent/guardian or eligible student, except as specifically permitted by law. *See* CCA Policy 216. Student Records (last visited July 29, 2022); Family Educational Rights and Privacy Act (FERPA) Notice (last visited July 29, 2022). *See* Ex. A at ¶ 15. The parents/guardians of the students whose records are at issue have not consented to the release of the requested records – Community Class Registration Forms. *Id.* at ¶ 16.

CCA recognizes that vital student learning can occur outside a traditional school setting and therefore encourages students to engage in real world learning experiences as an extension of the CCA curriculum; consequently, CCA offers a Community Class Reimbursement (CCR) program wherein CCA will reimburse a parent/guardian for the instructional component of a class taken in the community.² *Id.* at ¶ 8. For the 2019-2020 and 2020-2021 school years, CCA reimbursed up to \$200 per school year per student. *Id.* In order to obtain a CCR, a parent/guardian is required to submit a Community Class Registration Form with the attached Community Class Attendance Form, and proof of payment. *Id.* at ¶ 9. The Community Class Registration Form includes the following fields:

- Student Name:

² The Charter School Law requires a cyber charter school to provide each student and family: “a description of the lessons and activities to be offered both online and offline”; a list of “all services that will be provided to the student by the cyber charter school”; all instructional materials; all equipment, including, but not limited to, a computer, computer monitor and printer; and “provide or reimburse for all technology and services necessary for the on-line delivery of the curriculum and instruction.” 24 P.S. § 17-1743-A.

- Student ID#:
- Caretaker Name:
- Name of Business or Organization offering the class:
- Course Title:
- Number of times the class meets:
- Start Date:
- End Date:
- Cost of the class:
- Amount requesting for reimbursement:
- Please include the business entity number found on the following website:
<https://www.corporations.pa.gov/search/corpsearch>
- If you are unable to find the business entity number, a Tax ID must be provided.
- Parent/Guardian Signature
- Date

Id. The attached Community Class Attendance Form includes the following fields:

- [Class] Date[s]:
- Initials of Instructor:
- Student's Name
- ... attended _____ complete sessions of my class out of _____ total sessions offered.
- Please describe the structure of the class and provide a brief description of the instructional component delivered: _____
- Instructor Signature

Id.

Parents/Guardians submit completed Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment to CCA via email in a variety of ways, i.e., via a scanned PDF or .jpg image captured by a cell phone. *Id.* at ¶ 11. In many instances, the Community Class Registration Form, Attendance Form, and proof of payment are combined in a single document, either because a parent/guardian placed all three documents on a surface, took one picture on his/her cell phone, and emailed the image to CCA, or a parent/guardian scanned all three documents into a single PDF and emailed the PDF to CCA. *Id.* at ¶ 13. Once received, CCA maintains the completed forms and accompanying proof of payment in its electronic filing system. In the system, there is a folder specifically designated for each individual student, wherein the documentation is maintained. *Id.* at ¶ 12.

As a statewide public cyber charter school, CCA enrolls students from across the state. See Exhibit B, Affidavit of Timothy A. Eller at ¶ 11. To provide a way for caretakers and families to engage with one another and seek non-academic support and guidance from family mentors, the Commonwealth Charter Academy Family Services Mentoring Group Facebook group was created. *Id.* The group’s membership consists of only CCA caretakers and families and is governed by rules that “require[] mutual trust” and that “respect the privacy of all members of this group.” *Id.* As a private group on Facebook, “only members can see who’s in the group and what they post.” *Id.* The group is managed and overseen by family mentors who are caretakers of CCA students. *Id.*

As mentioned above, the Community Class Registration Form is not a publicly accessible form. A parent/guardian or eligible student must be logged in to an edio account (CCA’s private, proprietary learning management system) or private Facebook group to obtain the form. *Id.* at ¶ 10. On May 23, 2022,³ Ms. Spicka, the Executive Director of Education Voters of PA, posted an article to her blog, “Are cyber charters playing games with Pennsylvania tax dollars?” In her blog, Ms. Spicka reveals that “Education Voters of PA has obtained official emails and blank reimbursement forms along with screen shots from a Commonwealth Charter Academy Facebook page” and “Facebook posts in a CCA parent page show families discussing” activities. *Id.* at ¶ 5. In addition, Ms. Spicka offered to share the Facebook posts with the press upon request. *Id.* at ¶ 6. Ms. Spicka also posted the blog on the Education Voters PA Facebook Page. *Id.* at ¶ 7. Ms. Spicka removed the plethora of public comments that took issue with her post and likewise limited who could comment on the post. *Id.*

Ms. Spicka’s own comments thus show that she has infiltrated this private group and is willing to publicly share information in order to ridicule the parents and students who have chosen to participate in this learning opportunity. *Id.* at ¶ 12. Ms. Spicka’s actions have the intended or obvious effect of causing embarrassment and violating the privacy and confidence of CCA caretakers and families. *Id.* at ¶ 13.

³ On May 24, 2022, CCA issued a Press Release in response to Education Voters of PA’s recent attempt to malign and falsely accuse CCA of misusing taxpayer dollars. See Ex. B, Attachment 4b.

III. ARGUMENT

Section 102 of the RTKL defines a “public record” as a record “including a financial record, of a Commonwealth or local agency that: is not exempt under section 708; *is not exempt from being disclosed under any other Federal or State law or regulation* or judicial order or decree; or is not protected by privilege.” 65 P.S. § 67.102 (emphasis added). Section 305(a) of the RTKL further provides that records in the possession of a local agency shall be presumed to be a public record unless the record is exempt under section 708; is protected by a privilege; or is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. § 67.305(a). Additionally, Section 306 of the RTKL provides: “Nothing in this act shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree.” 65 P.S. § 67.306. Moreover, pursuant to Section 708(b) of the RTKL, the following are exempt from access by a requester under the RTKL: “(1) A record, the disclosure of which: (i) would result in the loss of Federal or State funds by an agency or the Commonwealth[.]” 65 P.S. § 67.708(b).

A. THE COMMUNITY CLASS REIMBURSEMENT FORMS AND THE ATTACHED ATTENDANCE FORMS SUBMITTED BY PARENTS/GUARDIANS TO CCA ARE NOT PUBLIC AND ARE EDUCATION RECORDS EXEMPT FROM ACCESS UNDER THE RTKL.

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations, 34 CFR Part 99, protect education records and “personally identifiable information” contained therein. The purpose of FERPA is two-fold:

to assure that parents and eligible students can access the student’s education records, and to protect their right to privacy by limiting the transferability of their education records without their consent. 120 Cong. Rec. 39862. *As such, FERPA is not an open records statute or part of an open records system. The only parties who have a right to obtain access to education records under FERPA are parents and eligible students.* Journalists, researchers, and other members of the public have no right

under FERPA to gain access to education records for school accountability or other matters of public interest, including misconduct by those running for public office.

73 Fed. Reg. at 74831 (emphasis added). FERPA imposes a responsibility on schools to safeguard student privacy, and any misstep may result in harm or embarrassment to students and families as well as a loss of federal funds. 20 U.S.C. § 1232g(a)(1)(A).

FERPA and its implementing regulations protect the privacy rights of parents and students attending educational institutions receiving federal funds⁴ by requiring schools to obtain parental consent before releasing: (1) education records; or (2) any personally identifiable information contained in an education record. *See* 20 U.S.C. § 1232g(b)(1),(2). FERPA defines “education records” as those records that are “[d]irectly related to a student” and “[m]aintained by an educational agency or institution or by a party acting for the agency or institution.” 20 U.S.C. § 1232g(a)(4)(A); *see also* 34 C.F.R. § 99.3. The regulations define “personally identifiable information” as:

- a) The student’s name;

⁴ (b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, ..

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless--

(A) there is written consent from the student’s parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student’s parents and the student if desired by the parents, or

20 U.S.C. § 1232g(b)(1),(2).

- b) The name of the student’s parent or other family members;
- c) The address of the student or student’s family;
- d) A personal identifier, such as the student’s social security number, student number, or biometric record;
- e) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
- f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

34 C.F.R. § 99.3.

The Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment constitute “education records” protected by FERPA. The forms and accompanying information contain information directly related to individual students, more specifically, the forms and accompanying information document the participation of a CCA student in a community learning experience; and the information is maintained by CCA in a folder designated for each individual student in its electronic filing system. And, as stated above, the parents/guardians have not consented to the release of such information. This should end the analysis – any record exempt from disclosure under federal law is not a public record subject to access under the RTKL – however, thus far, this issue remains pending before the Pennsylvania Supreme Court. *See Central Dauphin School District v. Hawkins*, 88 MAP 2021 (The Court granted the school district’s Petition for Allowance of Appeal to consider the following issue: “Whether the Commonwealth Court committed reversible error by ordering disclosure and

mandating redaction of a student education record that is exempt from public access under state and federal law - specifically, FERPA and Section[s] 102 and 305(a) of the Pennsylvania Right-to-Know-Law?”).

Consequently, CCA will address whether “the [requested records] can be redacted to remove their personally identifiable information, the [requested records are] not exempt, and [they] therefore must be disclosed.” *School District of Philadelphia v. Calefati, et al.*, 2022 WL 108455 (Pa. Cmwlth. 2022) (Opinion Not Reported) (quoting *Easton Area School District v. Miller*, 232 A.3d 716,730-31 (Pa. 2020)).

In her request, by seeking unredacted information, Ms. Spicka acknowledges the protections afforded to parents and students regarding education records and the personally identifiable information contained therein. However, she presumes that CCA will redact the following information from the Community Class Registration Form:

- Student Name
- Student ID #
- Caretaker Name and Parent/Guardian Signature
- Name of Business or Organization offering the class
- Business Entity Number or Tax ID

Her requested redactions do not take into account the personally identifiable information on the accompanying, and in many cases attached, Attendance Forms and proof of payment documentation, which includes, student’s name; the name of the student’s parent or other family members; and the address of the student or student’s family. In addition, as Ms. Spicka has infiltrated the CCA community via Facebook communities intended for parents, guardians, students, and caretakers, even if personal information is redacted, the Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment contain information that alone, or in combination, is linked or linkable to a specific student that

would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

B. THE PARENTS/GUARDIANS AND STUDENTS HAVE A CONSTITUTIONALLY PROTECTED PRIVACY INTEREST.

Under Section 706(b)(1), public records are exempt from public access if disclosure “would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.” 65 P.S. § 67.708(b)(1)(ii). Beyond that statutory protection, in *Pennsylvania State Education Association v. Commonwealth*, the Pennsylvania Supreme Court held that individuals possess a constitutional right to privacy in certain types of personal information. 148 A.3d 142, 158 (Pa. 2016) (“The right to informational privacy is guaranteed by Article 1, Section 1 of the Pennsylvania Constitution, and may not be violated unless outweighed by a public interest favoring disclosure.”). When a request for records implicates personal information, such information may be withheld when an individual’s interest in informational privacy outweighs the public’s interest in disclosure. OOR and Pennsylvania courts have thus far determined the following types of information implicate privacy concerns, subject to the balancing test: home addresses, telephone numbers, and social security numbers. *See Pennsylvania State Education Association v. Commonwealth*, 148 A.3d 142, 158 (Pa. 2016). In balancing such interests, courts sometimes ask – does disclosure of the personal information reveal anything about the workings of government.

The information contained in the Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment, contain names of students⁵ and parents/guardians; contact information of students and parents/guardians; information on

⁵ Section 708(b)(30) exempts the following information from access: “A record identifying the name, home address or date of birth of a child 17 years of age or younger.”

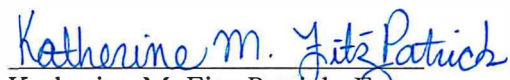
where/when a student may be on a particular time and date; payment details,⁶ including card type, card number, and billing address; cost to the parent/guardian of a course; and a description of the student's participation in the course as detailed by the parent. This information is very personal to a parent/guardian, and release of this very specific information about the extension of CCA's curricular program into the community for each individual student does not reveal anything about the workings of government, it reveals information about the parent's/guardian's personal choice related to what programs their child/children will participate in and the cost at which that participation comes.

In an effort to accommodate the requester, as well as the legal rights of its students and parents, CCA provided the requester with the aggregate data of the total community class reimbursement paid for the 2019-2020 and 2020-2021 school years. That is the appropriate balance of interests that should be struck under these circumstances.

IV. CONCLUSION

For the foregoing reasons, it is respectfully requested that the appeal of Requester be denied.

Respectfully submitted,



Katherine M. Fitz-Patrick, Esq.

Philip J. Murren, Esq.

Ball, Murren & Connell, LLC

2303 Market Street

Camp Hill, PA 17011

Counsel for Commonwealth Charter Academy

August 8, 2022

⁶ Section 708(b)(6)(i)(A) exempts the following personal identification information from access: "A record containing ... personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses ... or other confidential identification number."

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS

Susan Spicka

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v.

Docket # AP 2022-1704

Commonwealth Charter Academy
Charter School

CERTIFICATE OF SERVICE

I, Katherine M. Fitz-Patrick, hereby certify that on August 8, 2022, a true and correct copy of CCA's Response to RTKL Appeal was served via First-Class Mail, postage prepaid, and electronic mail upon:

Susan Spicka
Education Voters of PA
412 N. Third Street
Harrisburg, PA 17101
sspicka@educationvoterspa.org



Katherine M. Fitz-Patrick, Esq.

Philip J. Murren, Esq.

Ball, Murren & Connell, LLC

2303 Market Street

Camp Hill, PA 17011

Counsel for Commonwealth Charter Academy

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS**

SUSAN SPICKA

Requester,

v.

**COMMONWEALTH CHARTER
ACADEMY CHARTER SCHOOL,**

Respondent.

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: **Docket # AP 2022-1704**
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AFFIDAVIT OF NATASHA SHANE

I, Natasha Shane, hereby declare under the penalty of perjury, pursuant to 18 Pa. C.S. § 4904, that the following statements are true and correct based upon my personal knowledge, information, and belief:

1. I have been employed with Commonwealth Charter Academy Charter School (CCA) since October, 2011, and currently serve as CCA’s Vice President of Family Services (July 2019 – Present). My previous roles/titles at CCA include Parent Involvement Coordinator (October 2011 – July 2013), Family Involvement Manager (July 2013 – August 2017), and Director of Family Services (August 2017 – July 2019).
2. I am familiar with Susan Spicka’s Right-to-Know Law request (Request), and subsequent appeal, seeking the Community Class Registration Forms that were submitted to CCA for the 2019-2020 and 2020-2021 school year.
3. Ms. Spicka attached a copy of CCA’s Community Class Registration Form to both her initial request and appeal.
4. I worked with Evelyn De Jesus, CCA’s Open Records Officer, to assess whether a requested record was within the possession, custody, or control of CCA, and we both worked with legal counsel to review the records for applicability of exemptions and redaction as appropriate.
5. On June 30, 2022, CCA denied Ms. Spicka’s request. As part of the denial, CCA provided aggregate data of the total community class reimbursement paid for the 2019-2020 and 2020-2021 school years.
6. edio (Education for Individualized Outcomes) is CCA’s proprietary relationship management system (RMS). Not only does edio function as a learning management system wherein students attend class and complete coursework, edio also functions as the communication system between school staff and the CCA school community.

Exhibit A

7. CCA recognizes that vital student learning can occur outside a traditional school setting and therefore encourages students to engage in real world learning experiences as an extension of the CCA curriculum.
8. CCA offers a Community Class Reimbursement (CCR) program wherein CCA will reimburse a parent/guardian for the **instructional** component of a class taken in the community. For the 2019-2020 and 2020-2021 school years, CCA reimbursed up to \$200 per school year per student.
9. In order to obtain a CCR, a parent/guardian is required to submit a Community Class Registration Form with the attached Community Class Attendance Form, and proof of payment. See Attachment Ia.

a. The Community Class Registration Form includes the following fields:


- Student Name:
- Student ID#:
- Caretaker Name:
- Name of Business or Organization offering the class:
- Course Title:
- Number of times the class meets:
- Start Date:
- End Date:
- Cost of the class:
- Amount requesting for reimbursement:
- Please include the business entity number found on the following website:
<https://www.corporations.pa.gov/search/corpsearch>
- If you are unable to find the business entity number, a Tax ID must be provided.
- Parent/Guardian Signature
- Date

b. The Community Class Attendance Form includes the following fields:

- [Class] Date[s]:
- Initials of Instructor:
- Student's Name
- ... attended _____ complete sessions of my class out of _____ total sessions offered.
- Please describe the structure of the class and provide a brief description of the _____ instructional _____ component _____ delivered:
- _____
Instructor Signature

10. The Community Class Registration Form, including the Attendance Form attachment, is not publicly available. A parent/guardian or eligible student must be logged in to an edio account to obtain the forms. The forms are also available as a file on the Commonwealth Charter Academy Family Services Mentoring Group; however, this private Facebook group is only for enrolled families.
11. Parents/Guardians submit completed Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment to CCA via email in a variety of ways, i.e., via a scanned PDF or .jpg image captured by a cell phone.
12. Once received, CCA maintains the completed forms and accompanying proof of payment in its electronic filing system. In the system, there is a folder specifically designated for each individual student, wherein the documentation is maintained.
13. In many instances, the Community Class Registration Form, Attendance Form, and proof of payment are combined in a single document, either because a parent/guardian placed all three documents on a surface, took one picture on his/her cell phone, and emailed the image to CCA, or a parent/guardian scanned all three documents into a single PDF and emailed the PDF to CCA.
14. The proof of payment documentation attached to the forms contain personally identifiable information of the student and parent/guardian and personal financial information of the parent/guardian, i.e., payment details, including card type, card number, and billing address.
15. CCA does not disclose personally identifiable information without prior written consent of a parent/guardian or eligible student, except as specifically permitted by law. See CCA Policy 216. Student Records (linked); Family Educational Rights and Privacy Act (FERPA) Notice (linked). CCA takes these steps in order to fulfill its statutory obligations to maintain the confidentiality of this information under FERPA.
16. The parents/guardians of the students whose records are at issue have not consented to the release of the requested records.
17. Even if personal information is redacted, the Community Class Registration Forms with the attached Community Class Attendance Form and proof of payment contain information that alone, or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

Date: August 8, 2022


Natasha Shane
Vice President of Family Services

Commonwealth Charter Academy



Community Class Registration Form

Complete one form per student, per class and email forms to Lucia Perez at lperez@ccaeducate.me

All fields MUST be complete. Missing or incomplete documents will be returned to you and will result in reimbursement being deferred to the following quarter.

Student Name:		Student ID #:	
Caretaker Name:			
Name of Business or Organization offering the class:			
Course Title:		Number of times the class meets:	
Start Date:		End Date:	
Cost of the class:		Amount requesting for reimbursement :	
<p><small>*CCA will reimburse up to \$200 per year per student. CCA will not cover registration fees, membership fees, rentals, equipment, costs associated with overnight accommodations, costumes, or uniform costs. We will only reimburse for the instructional component being delivered.</small></p> <p><small>*CCA is unable to reimburse Caretakers or Learning Coaches for instructing their own student.</small></p> <p><small>*If possible, please include a brochure /pamphlet about the class.</small></p>			
Please include the business entity number found on the following website: https://www.corporations.pa.gov/search/corpsearch			
If you are unable to find the business entity number, a Tax ID must be provided.			

Consent and Waiver:

I certify that my son/daughter _____ has undergone a physical examination by a licensed physician within the last year and is in sound physical condition for unrestricted participation in the activities and classes arranged by Commonwealth Charter Academy or other community business or organization. In my or another legal guardian's absence, I authorize the staff and/or teacher of the class to act for me and to exercise his/her best judgment in situations requiring first aid or medical attention for my child. I understand that participation in classes or physical activities has certain inherent risks and I assume full responsibility for those risks. I waive any liability claims that may be asserted by me or my child against Commonwealth Charter Academy or any of its employees, agents, volunteers or representatives as a result of participation by my child in any classes or activities, and I release Commonwealth Charter Academy, the staff/teacher, volunteers, administrators and the hosting site of the program from any and all liability for any injury my child might incur while participating in the program. **I also will assume all costs associated with this program and understand that reimbursement of costs may be made only after completion of all requirements listed above and only to the extent covered above as a reimbursable cost.**

_____/_____/_____
Parent/Guardian Signature

Date

Proof of Payment:

You are required to submit proper proof of payment for the class. Please provide a **detailed/itemized receipt or invoice** from the business stating the student's name, how many classes were purchased, and the cost per class. Generic, lump sum receipts are not acceptable. You must submit proof of payment for the full amount of requested reimbursement.



Community Class Attendance Form

Please use the following form to track class attendance. Student must attend **80% or more** of the classes offered in order to be eligible for reimbursement. Form needs to be signed by the instructor of the class **after** completion. CCA will only reimburse the cost of the classes that are taken between the first and last day of school.

Date:		Initials of Instructor:	
Date:		Initials of instructor:	
Date:		Initials of Instructor:	
Date:		Initials of Instructor:	
Date:		Initials of Instructor:	
Date:		Initials of Instructor:	
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Date:		Initials of Instructor:	
Date:		Initials of Instructor:	

***Please use additional sheets if necessary.

I hereby state that _____ (student's name),

attended _____ complete sessions of my class out of _____ total offered sessions.

Please describe the structure of the class and provide a brief description of the instructional component delivered:

Instructor Signature

____/____/____
Date

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS**

SUSAN SPICKA
Requester,

v.

**COMMONWEALTH CHARTER
ACADEMY CHARTER SCHOOL,**
Respondent.

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: **Docket # AP 2022-1704**
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AFFIDAVIT OF TIMOTHY A. ELLER


I, Timothy A. Eller, hereby declare under the penalty of perjury, pursuant to 18 Pa. C.S. § 4904, that the following statements are true and correct based upon my personal knowledge, information, and belief:

1. I have been employed with Commonwealth Charter Academy Charter School (CCA) since December 3, 2018, and serve as CCA’s Senior Vice President of Outreach and Government Relations.
2. Prior to beginning my position with CCA, I served for eight years in various public relations positions in the Pennsylvania General Assembly; for almost four years as the Press Secretary and Director of Communications for the Pennsylvania Department of Education; and, for almost four years as the Director of the Keystone Alliance for Public Charter Schools, a charter school advocacy organization. I also served as an elected member of Susquenita School District’s Board of School Directors.
3. I am familiar with Susan Spicka’s Right-to-Know Law request (Request), and subsequent appeal, seeking the Community Class Registration Forms that were submitted to CCA for the 2019-2020 and 2020-2021 school year.
4. On May 23, 2022, Ms. Spicka, the Executive Director of Education Voters of PA, posted an article to her blog, “Are cyber charters playing games with Pennsylvania tax dollars?”. See Attachment 1b.
5. In her blog, Ms. Spicka reveals that “Education Voters of PA has obtained official emails and blank reimbursement forms along with screen shots from a Commonwealth Charter Academy Facebook page” and “Facebook posts in a CCA parent page show families discussing” activities.
6. In addition, Ms. Spicka offered to share the Facebook posts with the press upon request.

Exhibit B

7. Ms. Spicka also posted the blog on the Education Voters PA Facebook Page. Ms. Spicka then removed the plethora of public comments critical of her post and likewise limited who could comment on the post.
8. On May 23, 2022, abc27 (WHTM) ran a story on its website, “Education Voters of Pa. calls for audit of Commonwealth Charter Academy”. See Attachment 2b. abc27 News also posted the article on its Facebook Page, which received many comments – some of them very critical of CCA and the choices CCA families make with respect to their children’s education provider.
9. On May 23, 2022, the Scranton Times ran a story on its website, “Education group finds cyber charter school used taxpayer money for concert tickets, vacations, arcades”. See Attachment 3b.
10. On May 24, 2022, CCA issued a Press Release in response to Education Voters of PA’s recent attempt to malign and falsely accuse CCA of misusing taxpayer dollars. See Attachment 4b.
11. As a statewide public cyber charter school, CCA enrolls students from across the state. To provide a way for caretakers and families to engage with one another and seek non-academic support and guidance from family mentors, the Commonwealth Charter Academy Family Services Mentoring Group Facebook group was created. The group’s membership consists of only CCA caretakers and families and is governed by rules that “require[] mutual trust” and that “respect the privacy of all members of this group.” As a private group on Facebook, “only members can see who’s in the group and what they post.” The group is managed and overseen by family mentors who are caretakers of CCA students. See Attachment 5b.
12. Ms. Spicka’s own comments show that she has infiltrated this private group, and is willing to publicly share information and to ridicule parents and students who choose to participate in this learning opportunity.
13. Ms. Spicka’s actions have the intended or obvious effect of causing embarrassment and violating the privacy and confidence of CCA caretakers and families.

Date: August 8, 2022


Timothy A. Eller
Senior Vice President of Outreach and Government Relations
Commonwealth Charter Academy



Select Language ▾

Are cyber charters playing games with Pennsylvania tax dollars?



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Written by Susan Spicka

May 23, 2022

[blog](#)

Education Voters of PA has obtained official emails and blank reimbursement forms along with screen shots from a Commonwealth Charter Academy Facebook page that reveal during the 2021-2022 school year, CCA, Pennsylvania’s largest cyber charter school with enrollment of nearly 20,000 students, is using tax dollars to:

- Send every family a cash payment of \$150 (March 25, 2022)
- Provide a \$250 “community class” cash reimbursement for each student enrolled

- Provide a **\$200 “personal field trip” cash reimbursement** for each student enrolled

Facebook posts* in a CCA parent page show families discussing spending tax dollars provided by CCA to:

- Purchase meals and games Dave and Busters arcade
- Attend a Motley Crue concert
- Take a trip to Austria
- Buy Eagles tickets
- Take family vacations to Universal Studios and Disney
- Pay for scuba, ski, and horseback riding lessons

CCA is also using school field trips to market to families. On its website, CCA boasts that students are allowed to attend **one paid field trip per month** as part of more than 700 organized trips with the school for both individual and **social** field trips to locations including “Sky Zone in Lancaster County, where students can jump on trampolines and the Blue Mountain Resort’s Summit Ariel Park, where students will have access to four different ropes courses and have a chance to go ziplining or go through the obstacle course.” Other field trips offered by CCA include, “laser tag, rock climbing, bowling, and kayaking.”

These paid school field trips are *in addition to* the field trips families receive an annual \$450/student reimbursement for.

Click [HERE](#) to tell your state lawmakers that it is time to stop cyber charters from playing games with tax dollars.

Are cyber charter schools playing games with Pennsylvania tax dollars?



TRIPS & PAYMENTS

EDUCATION VOTERS
of Pennsylvania

An email from CCA to parents details that for the 2022-2023 school year CCA will:

- Provide families **up to \$240/month for participation in group field trips** by paying for students and two caretakers to attend two paid field trips per month at a rate of \$40/each per field trip (increased from \$40/month per family in 2021-2022)
- Provide families with \$75/month cash payments as part of their Instructional Technology Subsidy (increased from \$50/month in 2021-2022)
- Provide a \$300/student “community class” cash reimbursement for each student enrolled (increased from \$250 in 2021-2022)

It is unacceptable that while school districts are starving and property tax increases are squeezing home and business owners, cyber charter schools are so awash in excess tax money that they are using property tax dollars to pay for students’ private activities and trips and giving cash payments to families.

Because the legislature hasn’t required audits or reined in these excessive expenditures for so long, state lawmakers need to approve the full proposed \$1.75 billion increase in state funding for public schools this year to give school districts and taxpayers immediate relief. Moving forward they need to enact long-term fixes to these problems.

Click [HERE](#) to send a letter to your state lawmakers telling them to give districts immediate relief this year and to begin work on long-term fixes to these problems.

We are calling on Auditor General Timothy DeFoor to immediately open an audit of CCA to investigate these eye-popping abuses of tax dollars and answer the following questions:

- How much total money has CCA has sent to families as cash payments over the past two years, including those sent on March 23rd? Were these payments made with federal dollars or using funding from tuition payments made to CCA by school districts?
- How much tax money is CCA spending annually on field trips, including both the CCA-sponsored field trips and the reimbursed field personal field trips

for families and community classes for students?

- What exactly are “community class” and “personal field trip” cash reimbursements paying for?
- What other trips/activities, exactly, has CCA provided reimbursements for over the past two years?

CCA has not been audited by the state in nearly a decade and with annual expenditures in 2020-2021 of \$313 million, with no state oversight and as evidenced by public social media posts, the opportunities for waste, fraud, and abuse of tax dollars are extraordinary.

We have to question Auditor General’s motives for closing the AG’s Bureau of School Audits and ignoring the vast opportunities for waste in the cyber charter sector at the same time his office **announced fund balance audits of 14 districts.**

Why is a cyber charter school spending public dollars on Motley Crue concerts off limits, but school district fund balances are a priority for the Auditor General’s office?

If the Auditor General does not immediately open up an audit of CCA, we most strongly urge the General Assembly to enact legislation requiring the Auditor General’s office to conduct audits of CCA and other cyber charters both to learn how these schools are spending tax dollars and to help guard against the waste, fraud, and abuse of tax money by these schools. The order of the audits should be based on the size of the budgets at each cyber charter.

And we call on state lawmakers to immediately bring up a vote on House Bill 272, which would reform charter school funding to more closely match tuition payments to charter and cyber charter schools with their actual costs to end the state mandate that forces districts to send cyber charters funding in excess of what it costs them to educate students.

[Click HERE to send a letter to your state lawmakers telling it’s time for the Pennsylvania legislature to stop cyber charter schools from playing games with tax dollars.](#)

Today we will be in Harrisburg delivering [this letter](#) and [this flier](#) to each state lawmaker's office and holding a press conference in the Rotunda at noon and on via Zoom at 3:00. We also filed Right to Know requests with CCA seeking to learn what, exactly, they are paying for when they reimburse families for community classes and individual field trips. We will keep you posted on how that process goes.

Thank you for your support of public education.

Best,

Susan Spicka, Executive Director, Education Voters of PA

PS: Ed Voters is a small organization and we are the only organization in Pennsylvania working to expose the waste, fraud and abuse in the cyber charter sector. If you value this work, please consider making a donation today. We promise we will put it to good use!

*To protect families from potential retribution from CCA, we will share FB posts with redacted information with the press upon request and with the understanding that these posts will not be shared publicly.



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Harrisburg, PA 17101

Phone Number: (717) 255-7181





<https://www.abc27.com/local-news/harrisburg/education-voters-of-pa-calls-for-audit-of-commonwealth-charter-academy/>

Education Voters of Pa. calls for audit of Commonwealth Charter Academy

by: Daniel Hamburg

Posted: May 23, 2022 / 11:47 PM EDT

Updated: May 24, 2022 / 12:29 PM EDT

HARRISBURG, Pa. (WHTM) — An education group is calling for a state audit of a popular cyber charter school based in Harrisburg. It comes after the group learned what some families are spending their money on with cash reimbursements.

Education Voters of Pennsylvania wants the auditor general to investigate Commonwealth Charter Academy, saying CCA isn't spending taxpayer money wisely.

This year, Commonwealth Charter Academy gave students a one-time \$200 personal field trip reimbursement.

“We only did that this year because when we tried to plan field trips as a school, we had difficulty finding venues that would take large groups of students,” said Tim Eller, senior vice president of outreach and government relations at CCA.

Facebook screenshots obtained by Education Voters of Pennsylvania show some families discussing using the money to take trips to Dave and Busters, amusement parks, and concerts.

“It is unacceptable that while school districts are starving and property tax increases are squeezing home and business owners, cyber charter schools are so awash in excess funding that they're using property tax dollars to pay for students' private activities and trips,” said Susan Spicka, executive director of Education Voters of Pennsylvania.

Eller says it wasn't just free cash. “CCA reviewed the expenses to ensure that they were educational in nature or met some type of educational standard to be reimbursable. Some field trips were not reimbursed,” Eller said.

In March, CCA also sent a one-time technology subsidy payment for \$150. “It was just not a one-time willy nilly payment to families. That was to compensate them for increased costs that they're experiencing, as well,” Eller said.

South Middleton School District Superintendent Jim Estep says CCA is flush with money because of lawmakers.

“To some degree, I don't blame them for trying to figure out ways to pass it on to the kids. But is that what we should be doing with taxpayer dollars at the expense of the 500 regular public school districts?” said Estep.

Attachment 2b

Eller says this is a meritless attack. “We have an independent auditor that comes in every year that reviews our finances, reviews our books, and, you know, completes an audit of that just like a traditional public school district,” Eller said.

CCA conducts its own independent audit apart from the state.

In an email to abc27 on Tuesday, the Pennsylvania Department of the Auditor General said, “We have received the request to do the audit and we are carefully considering, but it’s important to remember that our staff resources are severely limited as we work to get our budget restored. We do have an audit of 12 school districts happening now through our Bureau of Performance Audits and need to complete that work first.”

In March, the auditor general said school audits will return to the Pennsylvania Department of Education.

https://www.thetimes-tribune.com/news/education/education-group-finds-cyber-charter-school-used-taxpayer-money-for-concert-tickets-vacations-arcades/article_1f4410a6-19b5-590a-b579-78bb4e1f2de0.html

Education group finds cyber charter school used taxpayer money for concert tickets, vacations, arcades

BY SARAH HOFIUS HALL STAFF WRITER May 23, 2022 Updated Jun 14, 2022

The state's largest cyber charter school potentially spent \$10 million in taxpayer money this school year to provide cash payments to families and reimburse them for student trips and activities, including for European vacations, arcade games or scuba diving lessons.

The report by advocacy group Education Voters of Pennsylvania comes as school districts prepare final budgets for next year and attempt to reenroll students who left traditional schools for cyber charter schools during the pandemic. The Harrisburg-based organization also used the report to again push for charter school funding reform.

“It is unacceptable that while school districts are starving, and property tax increases are squeezing home and business owners, cyber charter schools are so awash in excess funding that they're using property tax dollars to pay for students' private activities and trips and giving cash payments to families,” said Susan Spicka, executive director of Education Voters.

Commonwealth Charter Academy is one of 14 cyber charter schools across the state and has a family service center in Dickson City. Cyber charter schools are free for families, and school districts pay for students to attend. Officials at the school deny any wrongdoing.

With more than 18,000 students, Education Voters found the school is using taxpayer money to:

- Send every family a cash payment of \$150.
- Provide a \$250 “community class” cash reimbursement for each student enrolled.
- Provide a \$200 “personal field trip” cash reimbursement for each student enrolled.

Spicka obtained Facebook posts in a CCA parent Facebook group page that show families using the money to purchase meals and games at a Dave & Buster's arcade, attend a Motley Crue concert and buy tickets for a Philadelphia Eagles game.

CCA also offers more than 700 organized trips throughout the year, and students can attend one paid trip per month. Trips include going to trampoline parks, rock climbing, bowling and kayaking. Spicka said it was reasonable for CCA to pay for field trips as “community building” activities, but questioned how some of reimbursable expenses had educational value.

Starting in the fall, CCA will provide families:

Attachment 3b

- Up to \$240/month for participation in group field trips by paying for students and two caretakers to attend two paid field trips per month at a rate of \$40/each per field trip (increased from \$40/month per family).
- \$75/month cash payments as part of their instructional technology subsidy (increased from \$50/month).
- A \$300/student “community class” cash reimbursement for each student enrolled (increased from \$250).

Leaders of traditional schools across the state, who have also pushed for reform for years, expressed both frustration and outrage at the organization’s report. As Scranton continues in financial recovery, Superintendent Melissa McTiernan said she supports all students having every opportunity available. But the opportunities outlined in the report “far exceed the norm in our school district today,” she said.

“I continue to remain hopeful that our government officials can take steps to ensure equity and fair funding in our PA public schools,” she said.

In 2020, The Times-Tribune found that the Pennsylvania Department of the Auditor General had never audited six of the state’s 14 cyber charter schools. Despite a budget of more than \$300 million — exceeding Scranton’s budget by more than \$100 million — the state last audited CCA a decade ago.

Spicka sent a letter to the department Monday, asking for an audit of CCA’s expenses.

CCA responded to the report Monday by stating that cyber school law requires the school to provide families funding for technology and that the school prioritizes serving students and families “above all else.”

“More than 50% of students enrolled in CCA are from low-income families and, as a public school, we have a responsibility to ensure that all programs, services and activities are accessible to all students,” Timothy Eller, senior vice president of outreach and government relations, wrote in an email. “Perhaps, school districts should do the same and quit pointing the finger at cyber charter schools for their misplaced priorities.”



NEWS FOR IMMEDIATE RELEASE

May 24, 2022

Commonwealth Charter Academy Calls Out Education Voters of Pennsylvania's Ignorance of the State's Charter School Law and for Deliberately Misleading the Public

HARRISBURG – Commonwealth Charter Academy (CCA) President and CEO Thomas D. Longenecker today issued the following statement about Education Voters of Pennsylvania's recent attempt to malign and falsely accuse CCA of misusing taxpayer dollars:

"Education Voters of Pennsylvania, led by Susan Spicka, a former Shippensburg Area School District school board member who lost re-election in 2019, has been on a years-long crusade of criticizing and attacking CCA for the programs and services offered to students and families. It is becoming clearer that Ms. Spicka is ignorant about Pennsylvania's Charter School Law, specifically as it relates to public cyber charter schools.

"Section 1743-A of the Charter School Law requires public cyber charter schools to provide to each student and family 'a description of the lessons and activities to be offered both online and offline'; a list of 'all services that will be provided to the student by the cyber charter school'; 'all instructional materials'; 'all equipment, including, but not limited to, a computer, computer monitor and printer'; and 'provide or reimburse for all technology and services necessary for the on-line delivery of the curriculum and instruction.'

"Furthermore, cyber charter schools are expected to provide comprehensive learning experiences for students, including cooperative educational opportunities and social and educational field trips.

"CCA's Instructional Technology Subsidy, Community Class Reimbursement, and Student Loyalty field trip programs fall squarely within what is required by law, and has been standard operating procedure at CCA for more than 15 years. Unfortunately, Ms. Spicka is misleading and purposefully deceiving the public with the information she recently shared.

"CCA is audited on an annual basis by an independent auditor who reviews all revenues, expenditures, and fiduciary protocols of the school. All CCA programs and services are above board and are authorized by law.

Attachment 4b

“More than 50 percent of students enrolled in CCA are from low-income families and, as a public school, we have a responsibility to ensure that all programs, services, and activities are accessible to ALL students; this is not only required by law, but it is the right thing to do.

“In any school year, and especially during the pandemic, it is important for students to stay engaged and connected as part of their social development. CCA continues to seek out opportunities for students to explore the world around them.

“Ms. Spicka’s unfounded accusations and trumped-up statements are nothing more than an attempt to influence state budget negotiations and misinform CCA families.”

Media contact: Tim Eller, teller@ccaeducate.me, 717-710-3335

#

ABOUT COMMONWEALTH CHARTER ACADEMY

Commonwealth Charter Academy (CCA) is Pennsylvania’s largest public cyber charter school serving more than 22,000 students in grades K through 12. With nearly 20 years of experience in delivering online education, CCA provides flexible, personalized, and student-focused education programs and services. CCA is a family service organization that creates an educational experience and social learning opportunities for the entire family, including more than 700 annual field trips and events.

22 new posts today
717 in the last month

3,684 total members
+ 6 in the last week

Created 6 years ago

Group rules from the admins

- 1 Membership Approval**

To respect the privacy of our families, membership will be approved once enrollment is verified. Please complete the membership questions in their entirety to expedite your approval.
- 2 Be Kind and Courteous**

We're all in this together to create a welcoming environment. Let's treat everyone with respect. Kindness is required.
- 3 Communication is Key**

We ask that all members listen effectively and respond to opposing views without criticism.
- 4 No Promotions or Spam**

Business promotion, self-promotion, spam, and irrelevant information including outside organization links posted by members are not allowed in this group.
- 5 No Hate Speech or Bullying**

Make sure everyone feels safe. Bullying of any kind isn't allowed, and degrading comments about things like race, religion, culture, sexual orientation, gender, or identity will not be tolerated.
- 6 No Outside Group Promotion**

We ask that our members refrain from promoting outside groups within our group to maintain the objective of our mentoring group. Promotion of unofficial outside groups will be removed by admin.
- 7 Respect everyone's privacy**

Being part of this group requires mutual trust. Members will respect the privacy of all members of this group. Sharing content posted here, whether verbally, by screenshot, in summary, or otherwise will result in removal from the group. Authentic, expressive discussions make groups great, but may also be sensitive and private. What's shared in the group should stay in the group.