



**Senate Bill 335 & Charter School Reform**  
**Senate Education Committee**  
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Good morning, my name is Stuart Knade, and I am the Interim Executive Director for the Pennsylvania School Boards Association (PSBA). Thank you for the opportunity to share our comments with you specifically on Senate Bill 335 and about other reforms needed in our charter and cyber charter school laws and funding structure.

When Pennsylvania's Charter School Law was enacted in 1997, the overall concept sounded great---independently operated public schools, freed from many of the regulations and mandates constraining traditional public school systems, which would serve as laboratories for innovation in education, developing new approaches and methods that could benefit students in all schools. But the actual experience over the ensuing years has highlighted significant flaws in that law and the companion Cyber Charter School Law enacted in 2002 that prevent the promise from becoming reality. Those laws remain largely unchanged since they were enacted, and their flaws remain unaddressed.

A rigorous application process was supposed to provide quality control at the front end, but was gutted by an appeal process that routinely overturned school board denials of deficient charter applications too poorly thought out to be trusted with tax dollars and precious educational years of children. The law provided only limited mechanisms for ongoing oversight and accountability, further weakened when state appeal decisions overturned local decisions in some of the worst cases, revoking or refusing to renew charters of schools utterly failing to meet basic fiscal and educational obligations under the law. Billions of tax dollars have been redirected away from local school systems over the years by a funding scheme fundamentally flawed from day one, one that calculates payouts without regard to the actual cost of operating charter schools, permits far too many of those diverted dollars to be siphoned away from charter school classrooms by for-profit educational management companies, and creates a zero sum situation that puts school districts and charter schools at odds instead of promoting collaborative partnerships.

Pennsylvania's "Wild West" approach to the proliferation of charters schools is worsened by the law's failure to allow consideration of the fiscal impact upon a community and what a community's taxpayers could afford in determining how many charter schools should be created. It is a bitter irony that two years ago the Governor and General Assembly stopped reimbursing

school districts for 30% of their charter school payments, concluding that a growing number of charter schools made it too expensive for the Commonwealth to afford, thus adding that burden to what already is paid from local school district budgets.

We clearly cannot afford further delay in substantially reforming the Charter School Law and Cyber Charter School Law to finally get it right, fixing provisions that have not worked as intended and that generate undesirable fiscal and educational outcomes. We are very encouraged by the growing recognition in both Senate and House of the need to promote more sensible funding, quality in planning and governance, fiscal and educational accountability and transparency in operations, and by the various legislative approaches that have been introduced to address numerous key shortcomings of existing law. Among these are measures addressing specific funding problems that if enacted quickly would produce dramatic fiscal benefits for school districts and their taxpayers, such as the double counting of pension costs in calculating charter school payments. These measures should receive immediate attention, and should not be delayed while more comprehensive reforms are debated. PSBA appreciates the opportunity to participate in ongoing discussions on these proposals and to offer the association's perspectives.

The proposal contained in Senate Bill 335 represents an important component of the comprehensive funding reform measures that are necessary. PSBA welcomes and supports the bill's common sense concept that would exempt school districts that offer a comprehensive cyber education program for district students from the obligation to pay tuition for district students who nonetheless choose to enroll in a cyber charter school. This would reward a district's investment of resources in the development of cyber programs, and the sound fiscal management of taxpayer dollars reflecting the recognition that such programs can be operated by the district at a cost that is far less than what the district is forced to pay to cyber charter schools for such students. It would keep local tax dollars in the community benefitting students directly rather than being spent on advertising, on for-profit management companies or accumulating in cyber charter school fund balances.

It also makes sense from an educational standpoint to encourage and reward the development of district-based online learning programs. The dismal performance of cyber charter schools on state assessments demonstrates that online only programs are not working for a large number of cyber charter students. No cyber charter school met school-level AYP requirements in the most recent assessment year, and nine of the twelve cyber charter schools currently operating have never made AYP. The school report cards of even the best performing cyber charter schools reveal declines in the percentage of students scoring proficient and above rather than advanced. School districts are far better positioned to provide the necessary support and accountability for online learning, blended learning opportunities for students unable to succeed in online only programming, and conscientious delivery of special education services in

full compliance with state and federal requirements and provisions of individualized education plans.

Although this hearing is intended to be focused on one bill in particular, we think it is important also to offer PSBA's comments on some of the other pieces of the overall charter school reform picture that are important aspects of addressing flaws in existing law. Before turning to them, however, PSBA has a concern with one aspect of the wording in Senate Bill 335 that could defeat its purpose if not corrected. To be clear, PSBA supports the intent of the bill.

The concern we have is with the requirement that a district operated cyber program be "equal in scope and content" to that of an existing cyber charter school. If equality is the standard, even the smallest differences are sure to be raised as obstacles to the outcome intended by Senate Bill 335. This is likely to swamp the PDE administrative adjudication process with disputes about whether programs are or are not equal in some aspect or another. This wording also could penalize programs that are not equal because they are better. We believe that a better way to express the standard is that the district-offered program be "comparable in scope and content."

Accountability, transparency and educational outcomes are important areas of the charter school landscape needing reform, but without question, the current funding formula for charter and cyber charter schools is the most immediately pressing concern to school boards. The formula requires each school district to add up its budgeted total expenditures per average daily membership for the prior school year. It then requires a district to subtract out certain expenditures, such as the costs of nonpublic school programs, adult education programs, community and junior college programs, special education programs, student transportation services, facilities acquisition, construction and improvement services, and other financing uses. This calculation results in the tuition that must be paid by a school district for each regular education student that attends a charter or cyber charter school. For special education students attending charter or cyber charter schools, a school district must pay an additional amount above the regular education rate per student.

The result is that charter and cyber charter schools receive wildly different tuition amounts from school districts for similarly situated students, and without regard to the charter schools' actual program costs. For this current school year, school district payments to charter and cyber charter schools range from \$5,794 per student in one district to \$16,389 per student in another district for the same education, and information about program costs is elusive at best. When it comes to special education costs, the range is even more dramatic, as one district is paying \$12,153 per student, while another is paying \$41,594 per student, regardless of the severity of the student's special educational needs. The amount by which tax dollars paid out by

school districts exceed actual costs ends up in charter school fund balances, in management company profits, as well as in advertising and enrollment incentives.

This blunt and clumsy formula also fails to take into account that when a student leaves the district to enroll in a cyber charter school, the resident school district remains responsible for certain costs and other factors associated with that student's education and well-being. If the student is attending a brick and mortar charter school, the school district has the responsibility to annually assess whether the charter school is meeting its goals, and must ensure that the charter school is in compliance with its charter and that the requirements for testing, civil rights, and student health and safety are being met. A school district must also conduct a comprehensive review of the charter school when the charter is up for renewal. Additionally, school districts are responsible for providing resident students with transportation to brick and mortar charter schools whenever the charter school is in session. School districts also retain the responsibility to implement and enforce truancy laws for resident students who attend charter and cyber charter schools. Not only do these responsibilities and the costs of executing them remain with the school district, but there is less money to accomplish it.

Furthermore, when students leave a school district to attend a charter or cyber charter school, they rarely do so in neat groups of 25 from each grade and, consequently, school districts cannot reduce costs proportionally. The school district cannot furlough staff, close classrooms, or reduce its debt payments as a result of having a few less students enrolled. Recognizing the negative impact on a school district's budget, the state provided school districts with limited funding to cover a portion of their charter and cyber charter school costs. Beginning in the 2003-04 state budget, the reimbursement line item covered approximately 30% of a school district's total annual charter and cyber charter school bill, but this was subsequently eliminated in the 2011-12 budget. In light of these increasing costs, the need to substantially reduce or eliminate the financial burden of charter and cyber charter school tuition costs on local school districts and taxpayers is paramount.

There are several legislative proposals that address the charter and cyber charter school funding formula through various mechanisms and deductions. From PSBA's perspective, some of them can and should be implemented this budget cycle to give school districts and taxpayers needed relief. With this in mind, I would like to comment on several other specific proposals supported by PSBA for accomplishing needed charter school and cyber charter school reforms.

The proposal introduced by Senator Vance in Senate Bill 812 remedies one of the most blatant flaws in the current charter and cyber charter school funding formula by eliminating the pension double-dip for both cyber and brick and mortar charter schools. The bill would specifically exclude employer contribution costs for retirement from a school district's selected per student expenditure tuition calculation, while still allowing cyber and brick and mortar

charter schools to continue to receive the 50% minimum reimbursement from the Commonwealth for the cost of employer retirement contribution on account of their own employees. This would end what has been a maddening and unintended windfall for charter schools and demonstrates good stewardship of taxpayer dollars. We urge the Senate to pass Senate Bill 812 before the end of June.

PSBA also urges amendment of the tuition formula for cyber charter schools to exclude from the calculation other expenditures for services and programs that school districts must provide, but are not required of cyber charter schools. These include a school district's costs for student health services, food services, and library services, all of which are costs cyber charter schools do not have to bear, and at least half of the cost of the district's extracurricular activities, in which cyber students are entitled to participate. Furthermore, we suggest removing from the charter school tuition formula for both the brick and mortar and cyber charters costs associated with tax collection, a function neither charter entity performs.

PSBA is very supportive of comprehensive changes to the charter school law to address a host of issues regarding oversight, accountability, and transparency. In the case of cyber charter schools, the Commonwealth has responsibility for oversight but not funding. This places districts as bill-payers in the impossible position of being accountable to local taxpayers without a role in quality control or access to financial and academic accountability information. And yet, school districts continue to act as a "safety net" responsible for those students who are unable to successfully complete their education through a cyber charter school program. The expectation that the taxpayers of a community should be required to construct or finance the ongoing operation of any project or entity that is authorized within its boundaries by another agency is an illogical invitation to inefficiency.

Pennsylvania's charter schools, and especially cyber charter schools, also must be held accountable for academic performance standards and management transparency. The exemption of charter schools from many statutory and regulatory requirements and limitations constraining regular public schools was premised on the argument that this would free them to be laboratories of innovation, developing approaches and methods to be shared with all public schools. Rather than fulfill that promise, Pennsylvania's charter schools have fallen far short of meeting academic progress milestones, and many have struggled with sound governance and fiscal management. We suggest that these issues be addressed with changes to the Public School Code enhancing and enforcing charter and cyber charter school responsibility for teacher evaluations, truancy enforcement, and enrollment notification to the school district with regard to their students. Charter and cyber charter school trustees and administrators should be required to comply with the Ethics Act and Right to Know Law, and charter school law should clarify and eliminate family, employment, or financial relationship conflicts of interest within charter school boards of trustees and administrators. Regarding charter and cyber charter financial

accountability, we support the addition of fund balance caps equal to those that school districts must follow and the implementation of an annual audit process. Such an audit process would include determining the actual educational costs for both regular and special education students, and any overpayment by school districts would be returned at the end of the year through an annual reconciliation process.

We look forward to working with the members of this committee to implement changes that will hold charter and cyber charter schools accountable for their management of their students' education and use of public funds.

As a final note before the committee today, I must also take this opportunity to discuss some concerns we have regarding other charter and cyber charter reform proposals. First, PSBA opposes any shift in charter school authorization to any party (state, university, etc.) that is not also the party who is responsible for paying the tuition costs to such charter schools. Moreover, we have found no research supporting the idea that the expansion of multiple authorizers would increase student performance in charter schools. Conversely, the most recent study at the national level by the Center for Research on Education Outcomes (CREDO) suggests that the use of multiple authorizers may allow charter operators to “forum shop” for the easiest approval requirements.<sup>1</sup> As I have mentioned already, none of Pennsylvania's 12 cyber charter schools and only 30% of our brick and mortar charter schools made AYP in 2012. It seems we have a responsibility to first re-evaluate and remediate or eliminate underperforming charter and cyber charter schools before expanding the market in a way to allow for further unchecked growth in dire fiscal times, and to enhance rather than further dilute quality control at the front end of charter school authorization.

Second, PSBA cautions that any legislative proposal that would allow direct payment to charter and cyber charter schools from the Pennsylvania Department of Education (PDE) should include appropriate school district review of the invoice and an appeal process prior to the funds being deducted from the school district. Without a proper and transparent process, direct pay could leave school districts with no efficient means to challenge a payment and no ability to represent their local taxpayers should any inaccuracies occur with student residency or enrollment dates, or the amount deducted. If direct payment is a priority, we look forward to working with the committee on a direct pay proposal that would sufficiently address these concerns.

We appreciate the opportunity to continue working with legislators both in passing legislation in areas where we agree and determining common ground on issues where our perspectives may differ in some respects. I must emphasize, however, that action to alleviate the financial burden of cyber charter schools on school districts is needed immediately, and should

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<sup>1</sup> [http://credo.stanford.edu/reports/MULTIPLE\\_CHOICE\\_CREDO.pdf](http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf)

not wait while other aspects of reform are considered. We encourage the committee to approve Senate Bills 335 and 812 for full Senate consideration before the end of this budget cycle.

Thank you for your attention and for inviting our testimony today. I will be happy at this point to try to answer any questions you may have.