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Pennsylvania School Boards Association

Written Testimony  
Special Education Funding  
January 23, 2013  
Republican Policy Committee

The Pennsylvania School Boards Association (PSBA) thanks Chairman Erickson and the Republican Policy Committee for holding this hearing to address the cost and inequities in special education funding. We welcome this opportunity to present written testimony on special education funding in the Commonwealth with respect to its impact on school districts and factors that drive up special education costs.

School districts strive to give children an equal opportunity for a good education and cannot refuse services to a child with special needs. Therefore, districts must continue to tighten budgets to find new ways to fund the special education mandates and prioritize the educational programs that benefit all students. PSBA appreciates the attention directed toward special education reform last year and the commitment of the General Assembly to address this issue to better account for the challenges school districts face. Public schools need the resources to provide the interventions and support necessary for children with learning and other disabilities to succeed.

Special education costs are driven by the requirements of the Individuals with Disabilities Education Act (IDEA), Pennsylvania regulations (which cover gifted as well as disabled students), and the unique needs of the students in each district. Unfortunately, the U.S. Congress has never come close to its promise of funding 40 percent of the costs for IDEA<sup>1</sup> and this was compounded in 1991 when Pennsylvania discontinued providing 100 percent funding of the “excess costs” of providing appropriate special education services to students. Therefore, we would argue that reform needs to take a holistic approach in increasing the annual appropriation of state funding, amending the current formula for how money is distributed to school districts, and avoiding new requirements that would cause the Commonwealth’s school districts to experience further financial stress.

**Increase the Special Education Appropriation to Fully Fund Special Education Requirements.** Local property taxpayers not only had to bear the burden of the 1991 shift of costs, but also continue to bear the escalating costs of providing special education services. Pennsylvania school districts spent nearly \$1.5 billion on special education costs not covered by state or federal funds, meaning that local taxpayers have paid for 54 percent of the total cost of special education statewide.<sup>2</sup> According to the same report, over three-quarters of school districts have a shortfall in annual funding for special education that amounts to approximately a \$1,947 per student for which the district and local taxpayers must compensate. PSBA urges the Committee to be cognizant of the special education funding line item, which has remained flat at approximately \$1 billion for the past five years and provided only minimal increases in prior years leading to the stagnation. The special education appropriation needs an additional investment in the 2013-14 state budget.

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<sup>1</sup> Federal funding for special education has never risen above 12 percent.

<sup>2</sup> *Costing-Out the Resources Needed to Meet Pennsylvania’s Education Goals for Students with Disabilities*, 2009, p. 8.

**Amend the Funding Formula.** Special education services cost, on average, 2.3 times more than the cost of educating a non-special education student.<sup>3</sup> School districts are struggling to pay for these costs as demonstrated by PDE’s Report on Act 1 Referendum exceptions, which shows that 129 school districts were approved for special education exceptions in the 2012-13 school year, representing over 25 percent of the Commonwealth’s school districts.<sup>4</sup> This reflects unsustainable costs due, in part, to assumptions in the funding distribution formula. First, the distribution formula for special education subsidies assumes that 16 percent of students in each of the 500 school districts need special education services. Second, the fixed dollar reimbursement assumes that all special education costs are the same – not only across a broad range of needs, but also in different regions of the Commonwealth.

**Charter School Special Education Funding.** Another concern regarding special education funding is that school districts are required to reimburse charter schools for special education costs using a different formula. Current charter school law 24 P. S. § 17-1725-A states:

“(3) for special education students, the charter school shall receive for each student enrolled the same funding as for each non-special education student as provided in clause (2), plus an additional amount determined by dividing the district of residence’s total special education expenditure by the product of multiplying the combined percentage of section 2509.5(k) times the district of residence’s total average daily membership for the prior school year. This amount shall be paid by the district of residence of each student.”

Section 2509.5 (K) states:

“(k) During the 1996-1997 school year, each school district shall be paid:

- (1) an amount to be determined by multiplying fifteen percent (15%) of its school-age average daily membership by one thousand one hundred fifteen dollars (\$1,115); and
- (2) an amount to be determined by multiplying one percent (1%) of its school-age average daily membership by thirteen thousand one hundred twenty-five dollars (\$13,125).”

These differences in the special education funding formulas translate into further funding inequities between charter schools and school districts.

PSBA maintains that school districts need a more sustainable and predictable distribution of the special education appropriation, where it would not be assumed that school districts each have an equal proportion of special education students. Revisions to the funding formula should consider both the actual number of students receiving special education services and the actual cost incurred providing these special education services in each school district.

**Avoid Prescribing New Requirements for Special Education.** Finally, federal mandates for special education under IDEA prescribe extensive requirements that schools must follow to provide a free and appropriate education for students with special needs. In addition to federal law, Pennsylvania has included further special education plans related to evaluation, eligibility, discipline, and due process in state regulations under Title 22.

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<sup>3</sup> *Costing-Out the Resources Needed to Meet Pennsylvania’s Education Goals for Students with Disabilities*, 2009, p. 6-7.

<sup>4</sup> Approved special education referendum exception requests for 2012-13 amounted to \$66,476,126.

Last session, legislation was circulating that would have made a number of changes in Pennsylvania's law, including developing a new special education funding formula for any increase in funding above the base year, establishing penalties for school districts by withholding funding, and creating new planning and reporting guidelines. This legislation would have established two new commissions. The first commission was a Special Education Funding Commission to review special education funding and make recommendations related to a new special education funding formula for school districts. The second commission was a Charter School Funding Advisory Commission to review charter school entity financing laws and make recommendations regarding the funding formulas for charter school entities, including the special education funding formula for charter schools. The bill excluded charter and cyber charter schools from actual application of the special education funding proposal, despite needed reform for the funding problem associated with these schools.

While we agree that changes to the law are necessary, PSBA was unable to support last legislative session's efforts for a number of reasons. First, elevating special education plans from regulation to statute raises several red flags for PSBA, including the fact that it will become too amenable to further changes by special interest groups, rather than utilizing the comprehensive regulatory process. With IDEA being the main source of law in special education, any changes adopted by Congress can be more easily managed and adopted through Pennsylvania's regulatory process than seeking changes through its statutory process. Furthermore, the bill was overly prescriptive in its new requirements for school districts' special education planning and reporting, for which school districts already have specific guidelines, and the proposed formula to be reviewed by the Special Education Funding Commission did not apply funding for actual special education costs incurred by charter schools and school districts.

PSBA encourages legislators to address issues that exist in current special education funding law while also avoiding the adoption of policies related to special education that require already overextended districts to spend more money.

Thank you again for acknowledging this important issue and allowing input from PSBA. Please do not hesitate to contact Ashley Lenker White, PSBA Government Relations Director, at 717-506-2450 ext. 3316 or Beth Winters, Assistant Executive Director for Governmental and Member Relations at ext. 3324 with questions.