May 10, 2019

House Education Committee

Pennsylvania House of Representatives

Dear Representative:

On behalf of the 4,500 elected officials who govern the Commonwealth’s public school districts, the Pennsylvania School Boards Association (PSBA) is appreciative of the work done in the House of Representatives in recognizing and endeavoring to address the issue of charter school reform with House Bills 355, 356, 357, and 358. PSBA looks forward to working with the General Assembly to achieve charter school reform that enhances transparency, accountability, and parity between charter schools and school districts.

The package of charter school bills makes strides toward achieving some of those goals. However, the package fails to address a critical issue – funding. Specifically, the overpayment to charter schools for special education students, calculation of cyber charter tuition rates, the tuition reconciliation process, and other important funding issues. PSBA believes that any meaningful charter reform must include measures which address charter school funding. Otherwise, it will continue to be a significant issue until addressed by the General Assembly.

As for the bills in the charter school package, PSBA would like to highlight our positions and most significant concerns.

***House Bill 355 (P.N. 1744), sponsored by Representative Reese – Support***

The bill would require any charter school advertising clearly state that all costs are covered by taxpayer dollars. The bill would also enhance charter school governance, ensure administrators and trustees avoid conflicts of interest, and finances are independently audited. These changes will bring charter school accountability and transparency closer to the level of traditional public schools. PSBA supports this bill and has offered a few technical clarifying recommendations.

***House Bill 356 (P.N. 1745), sponsored by Representative Dowling – Oppose***

The bill would add requirements to ensure charter school facilities are non-sectarian, give charter schools the right of first refusal to purchase or lease school buildings no longer in use by a school district, and allow a charter school to operate at more than one location within the authorizing school district(s) so long as the charter school’s written charter does not limit enrollment. PSBA’s opposition of this bill is based on two issues:

1. Any decision to sell or lease a school building should originate with the school board and while this may have been the intent of the bill, it is unclear as drafted. We look forward to working with the General Assembly to ensure this is clearly reflected in the bill’s language.
2. Allowing charter schools to expand to multiple locations without any oversight or approval from authorizing school district(s) raises several noteworthy concerns:
   1. Resulting enrollment expansions that occur would have a substantial budgetary impact on sending school districts.
   2. Further, this expansion would occur regardless of the quality of the educational program provided by the charter school. Granting underperforming charter schools unfettered expansion would be a disservice to students and taxpayers.
   3. An essential function of the authorizing school district(s) during the application process is to evaluate whether the charter school can adequately finance its facilities, verify that the proposed charter school facility is suitable for the proposed program, complies with building codes and accessibility requirements, contains adequate space anticipated enrollment, and that the charter school is able to adequately staff and maintain its facilities. None of these steps would occur under the bill.
   4. Allowing a charter school to expand to multiple locations will have direct impacts on sending school district transportation programs. Those districts would be required to add new bus routes, revise existing routes, or reassign students to other busses/routes in order to transport students to the new charter school location.

Any expansion of a charter school would trigger all of the concerns listed above, which is why those changes should be considered during an amendment or renewal process. For these reasons, PSBA believes this provision should be removed from the bill.

***House Bill 357 (P.N. 1746), sponsored by Representative Topper – Oppose***

The bill would make significant changes to the process used to apply to open a charter school, amend an existing written charter, and the admission and enrollment of students in a charter school. PSBA’s opposition of this bill is based on four primary issues:

1. The bill would require the creation of a standard charter school application for new and renewal charter school applications. The standard form would include information on 22 items and an authorizing school district would be prohibited from developing its own application or requesting any information that is not included in the standard application. Once issued, the standard application could only be changed by an act of the General Assembly.
   1. The legislative process may not permit timely changes to the application should they be necessary. Granting the State Board of Education the authority to make changes to the application would be a fitting compromise to ensure changes are timely and thoroughly vetted.
   2. The 22 items to be included in the application lack a requirement to submit data by which charter school performance in governance, finances and student achievement could be evaluated. The lack of such a requirement will allow poor performers to continue operating and crowding out higher performing charter operators.
2. School districts would only be given 90 days to evaluate and act upon an application for charter renewal, which is an insufficient amount of time in most cases because:
   1. Authorizers will need time to obtain necessary information not already provided, arrange and perform site visits, review records and information (such as audits), and then evaluate the entirety of the charter school’s operations for the preceding years. Giving school districts 120 days for renewal applications would coincide with the timelines for initial charter application review and for the proposed amendment process.
3. The charter amendment process in the bill is problematic for several reasons:
   1. The Charter Appeal Board (CAB) would now have jurisdiction over charter amendments. Granting the CAB jurisdiction over every proposed change to a charter agreement would add another layer of bureaucracy, undermine the authority of charter authorizers, and lead to costly litigation. Significant changes to a written charter may still be sought through the charter renewal process, which is appealable to the CAB. It is PSBA’s belief that charter amendments should not be subject to CAB review.
   2. The bill does not limit what areas can be addressed through an amendment or when an amendment may be sought. That would seem to indicate that any aspect of the charter could be changed through an amendment at any time. Additionally, this allows charter schools to seek significant changes to their charter through the amendment process immediately after being granted a charter which would defeat the purpose of the initial application and waste school district time and resources to evaluate such requests. It is PSBA’s belief that the amendment process should have common sense parameters regarding content and timing.
   3. Charter schools would be able to immediately and unilaterally make temporary “emergency” changes to their charter in the event the charter school is unable “to acquire services or products outlined in a charter or facility damage”. Authorizing school districts should be flexible in working with charter schools that suffer facility damage that prevents the charter school from operating. The inability to acquire services or products, on the other hand, does not rise to the same level of emergency as facility damage and without clarification could be an area of conflict between charter schools and authorizing school districts. Denials of temporary amendments could lead to disruptions to not only charter school operations, but also to student learning. As such, emergencies for services and products should be removed from the bill.
4. Charter schools without enrollment limits would be able to change the charter school’s location without going through the charter amendment process. The charter school would only have to provide the school district with a notification of its intent to change location. This provision amounts to expansion without oversight and, as stated above regarding HB 356, any change in a charter school’s location would trigger numerous concerns which are better suited for an amendment or renewal process. For these reasons, PSBA believes this provision be removed from the bill.

***House Bill 358 (P.N. 1747), sponsored by Representative Marshall – Support***

The bill would allow charter schools to enter into agreements with postsecondary institutions to allow charter school students to attend and earn credits at postsecondary institutions. Because all public school students should be able to benefit from programs which allow students to earn postsecondary credit while in secondary school, PSBA supports this bill.

PSBA is pleased to support HB 355 and 358. While PSBA currently opposes HB 356 and 357, we believe there is an opportunity to achieve meaningful charter reform and we remain committed to working with the General Assembly to find common ground on these and other charter reform issues. We want to thank you for your attention to these important issues and the dedication you have shown to the students of this great Commonwealth. Please do not hesitate to contact me at (717) 506-2450 x3337 with any questions about our positions or comments on these bills.

Sincerely,

John Callahan

Chief Advocacy Officer