

HOUSE OF REPRESENTATIVES
Education Committee

Representative James R. Roebuck, Jr.

Democratic Chairman

Christopher Wakeley, Executive Director

Room 208 Iris Office Building • Harrisburg, PA 17120 • Phone: 717-787-7044 • Fax: 717-783-1665

House Education Committee Public Hearing

March 17, 2010

205 Ryan Office Building, Harrisburg, PA

Subject: Charter and Cyber Charter Schools

Agenda

9:00-9:30am

Opening Remarks

Chairman James R. Roebuck - House Education Committee

Representative Mark Longietti **HB483**

Representative Tim Seip **HB1362**

Representative Dan Moul **HB2036**

Representative John Pallone **HB2320**

Representative Will Tallman **HB2328**

9:30-10:00am

Pennsylvania School Boards Association (PSBA)

Timothy Allwein; Assistant Executive Director for Governmental & Member Relations for PSBA

10:00-10:30am

Charter & Cyber Charter Schools

Maurice Flurie; Connections Academy

Andrew Oberg; Executive Director of PA Cyber Charter School

Jon Marsh; CEO, 21st Century Cyber Charter School

Beth Santangelo; Parent, PA Virtual Charter School

Bill Winters; CEO, Collegium Charter School

10:30-10:35am

Closing Remarks / Adjournment

Chairman James R. Roebuck - House Education Committee



**Testimony on HB 483, HB 1362, HB 2036, HB 2320 and HB 2328 – cyber charter schools
Presented to the House Education Committee**

March 17, 2010

Timothy M. Allwein

Assistant Executive Director of Governmental and Member Relations

Good morning, Chairmen Roebuck and Clymer and members of the House Education Committee. I want to thank you for bringing attention to the issue of cyber charter schools and for giving me the opportunity to comment on several related pieces of legislation this morning.

Online instructional tools can be an effective component for expanding children's learning opportunities, and in fact, distance learning is increasingly utilized by school districts to enhance their students' learning and to attract cyber charter school students to return to their resident school district. PSBA supports the bills being reviewed by the Committee today, with some minor technical changes, because they attempt to correct problems that have arisen since the charter school statute's enactment.

For instance, school districts are being required to pay for the cyber charter education costs of children younger than the resident district's normal age of beginner. While PSBA recognizes the importance of early childhood education for Pennsylvania's youth, we maintain that taxpayers should not be financially accountable for cyber students' education if the community, through the school board of directors, has established a standard age of beginner that is older than the age at which cyber schools offer services.

None of Pennsylvania's school districts are required to provide early childhood or kindergarten education to their students. The Commonwealth Court ruled last year in *Slippery Rock School District v Pennsylvania Cyber Charter School (June 4, 2009)* that a school district *is* obligated to fund educational programs offered by charter schools for 4-year-olds *even though* that child would not meet the age requirements of the school district's kindergarten class (available to 5-year-olds) if the child chose to enroll in the district's schools.

A similar situation occurred in the Schuylkill Haven School District, when a cyber charter school billed the District for tuition for a student enrolled in the cyber charter's pre-Kindergarten program. The District did not offer a pre-Kindergarten program of its own, and therefore did not believe that it should be responsible for paying the tuition for the student in question. The Department of Education, however, has indicated that, in fact, the District would have to pay the cyber pre-Kindergarten tuition for the student because it believes a district *is* obligated to fund educational programs offered by charter schools even if a district does not offer that program itself.

If districts are paying cyber charter schools for services even if the children do not meet the minimum age requirements established by the school board of directors, this means that local taxpayers have been paying for the education of cyber students who they would not be financially responsible for if those children were enrolled in the school district. PSBA supports House Bill 483, Rep. Longietti's legislation to clarify that students who do not meet the minimum age requirements either for kindergarten or, if the district does not offer a kindergarten program, for beginners, with amendments to streamline language in the bill and make it clear that it applies to cyber charter schools as well as brick-and-mortar charter schools.

House Bill 1362 by Rep. Seip addresses this issue from a different angle, as it seeks to ensure that a school district would not be responsible to provide payment to a cyber charter school for those classes, programs or services that are not provided by the student's resident district. Both of these bills are as a common-sense approach designed to correct this matter and to help school districts achieve some measure of control of their cyber school costs and to prevent , local taxpayers are footing the bill for programs and services which they would not otherwise do if the student had enrolled in the district schools.

We know of many districts and intermediate units that have taken proactive steps to try to control their cyber charter school costs by offering online courses and programs to their students, including Solanco School District, Brandywine Heights School District, Susquehanna Township School District and Charleroi School District, just to name a few. The Capital Area Intermediate Unit also recently announced that it has expanded its partnership with Edison Learning to provide online options for districts and students, and is continuing to build options so it can offer full-time cyber classrooms to complement district offerings. Other intermediate units across the state have expressed interest in learning more about the Capital Area IU's program.

These options can be a huge benefit to students by offering them the online options they desire, but ensuring that the student is still considered enrolled in the district, with access to the resources the district schools can offer, and would be issued a diploma by the local district. However, if a district is already investing the resources, often at a significantly lower rate than the cyber charter tuition rate for their district, to provide these online options to students, neither the district nor the state should be required to be financially responsible for student who wish to choose another cyber option. We support House Bill 2036 in trying to remedy this situation.

Under current law, school districts are also required to provide transportation to their resident students who attend a charter school or regional charter school located either within the district or no more than 10 miles outside the district. Depending on the school district, this mandate can result in additional busses being bought or contracted by the district, adding to the number of miles driven each day by school vehicles (including the potential for transporting students to out-of-state schools), adding to the complexity of designing bus routes and increasing fuel needs.

While districts are eligible for the same state reimbursement for the transportation of charter school students as for the transportation of nonpublic school students, the reimbursement of \$385 per student set in statute has not increased since the 2001-2002 school year, even though transportation costs have substantially increased in the same time period. As with other underfunded mandates, local taxpayers are left to pay the remainder of the bill. Removing the requirement to provide transportation to charter schools for those school districts that are not required and choose not to transport their own students will help to reduce these transportation costs for those districts.

There are also other ways in which the General Assembly can provide relief for the mandate on districts to provide charter school transportation. For instance, PSBA would suggest other remedies such as limiting the scope of travel by reducing the radius of travel outside the district or restricting travel to within the district boundaries, or to remove the requirement that school districts transport charter school students on days when the district's schools are not in session. In addition, we recommend that no transportation to charter schools located in other states be allowed (except for those schools that offer specialized education to students with disabilities).

Any of these four bills would assist school districts in reducing costs as they face budgetary difficulties which are compounded by difficult economic conditions, rising health care costs and the looming spike in the PSERS' contribution rate in 2011-2012, and we appreciate the sponsors' initiative in introducing them. However, PSBA would strongly urge this committee to not only move these bills, but to also consider legislation that would tackle the larger issue of funding inequity as it pertains to cyber schools.

Current law requires school districts to pay tuition payments to cyber charter schools based on selected per-pupil expenses in the student's resident district. This law means that the amount of funding sent to a cyber school can vary widely throughout the state – according to PDE, tuition rates ranged from a low of \$5,400 per student in the Reading School District to a high of \$15,000 per student for the Jenkintown School District. Both Auditor General Jack Wagner and the Task Force on School Cost Reduction have concluded that school districts are overpaying cyber charter schools because the existing formula structure is based on the cost to educate a student in the school district, NOT in a cyber charter school. PSBA supports Rep. Beyer's House Bill 940, which establishes a new formula to calculate cyber charter school tuition. Similar changes are also contained in Rep. McIlvaine-Smith's House Bill 1802.

These funding changes have been offered in previous sessions and have been thoroughly vetted by this committee. School districts are already facing the anger of their residents, who demand that school boards find ways to cut costs rather than increasing taxes. The state can help reduce the costs associated with cyber charter schools, but the General Assembly needs to take this issue to the table during this year's budget process. School districts can no longer wait for relief from this mandatory expenditure, as cyber charter enrollment continues to grow and other costs place additional pressures on school district budgets.

In addition to financial accountability for cyber charter schools, PSBA believes that a means of ensuring appropriate performance standards and effective monitoring of cyber charters is also needed to protect the interests of children. Too often, we hear stories of students who were truant in the district's schools, but then transfer to cyber charter schools where it becomes more difficult to keep track of whether or not they are actually participating in their education. In addition, although the student is enrolled in the cyber charter school, statutorily it is the resident school district's responsibility to institute truancy proceedings. We need to make certain that cyber charter schools are accountable for seeing that students are actually meeting compulsory attendance requirements, and hold them responsible for a student's truancy since they would be the ones to keep track of the students.

Rep. Pallone's House Bill 2320 takes a significant step in the right direction to hold cyber charter schools accountable for student learning. Since school districts act as the safety net for those students for whom cyber charters ultimately do not work, they have a legitimate interest in ensuring that cyber charter students are receiving an appropriate education that would enable them to smoothly transition back to the school district if necessary.

PSBA members have made reducing or eliminating the financial burden on school districts for charter and cyber charter schools one of their top legislative priorities for the 2009-2010 legislative session. Increasing the accountability of charter and cyber charter schools will help assure taxpayers that their funds are being spent wisely. We suggest that in this economic climate and with a looming pension crisis, the Commonwealth cannot continue to fund duplicative public education systems. Accordingly, we urge you to move these bills forward in the near future to provide some assurance to school districts that they are not paying excessive costs for cyber charter education and that those institutions will be held to the same expectations as they are in terms of student attendance and student learning.

However, we would reiterate that cyber charter funding reform is not an issue on which the General Assembly can sit idle any longer. It has been made clear, both by state-level officials and our elected school directors, that the time to address this issue is now, and we ask for your assistance in putting this very important and timely issue on the front-burner.

Thank you for your consideration of these important legislative initiatives. I would be happy to answer your questions at this time.

Joint Testimony of Dennis Tulli, Chief Executive Officer
and Maurice Flurie, Assistant to the CEO
Commonwealth Connections Academy
House Education Committee
March 17, 2010

Thank you for the opportunity to present, what I think is information pertinent to the discussion surrounding HB 2320.

House Bill 2320 creates onerous procedures to be followed when students who have been truant from a "bricks and mortar" school enroll in a cyber charter school. These procedures impede school choice and educational opportunities for students in Pennsylvania.

I agree with the general proposition to improve communication between traditional bricks and mortar schools and cyber schools and to encourage student attendance. However, the procedures to be followed, as described in House Bill 2320, require cumbersome paper work and present unwarranted expenditures of time on cyber charter school staff. This proposed bill requires far more from cyber schools enrolling students than it does from district schools, parochial schools, private schools or even "bricks and mortar" charter schools. This is fundamentally unfair to cyber charter schools and their students. In the event that a formerly truant student who is enrolled in a cyber school accrues three or more days of unlawful absence, the bill requires the cyber school to institute truancy proceedings in the jurisdiction of the residence of the student. Considering that cyber charter schools serve students and families in almost every county in PA, it is not reasonable to require cyber schools to work with every municipality in the state when the resident school districts already have relationships and resources in place to address truancy issues.

Who pays for local schools prosecuting students in that community? Bricks and mortar schools in districts keep around 25% of the state subsidy and could easily cover the expenses of a Home and School Visitor and/or prosecuting a truant student or his or her family. I would point out that the local school district keeps a portion of the fines paid in prosecutions, which would further defer costs for the school district, while negatively impacting the cyber school's finances.

Cyber schools welcome the opportunity to improve communication with local districts. We are happy to closely monitor attendance of all of our students and to develop plans for the elimination of truancy. However, when a need to prosecute arises, we believe cyber charter schools should receive the district's compliance as currently set forth in the "Compulsory Attendance" sections of the Charter School and Cyber Charter School Basic Education Circulars ("BECs") issued by the Pennsylvania Department of Education. In the BECs, PDE directs charter schools to notify the district of residence when a student has accrued three or more unexcused absences. The district of residence is then responsible

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for compulsory attendance prosecution in accordance with the Public School Code. In this manner, school districts are made aware of student attendance and, at the same time, can assist in facilitating student attendance. No charter school-cyber or brick and mortar is authorized by statute to prosecute truancy and this amendment stands in conflict with the Public School Code.

In my opinion, this proposed bill misses many important factors which are symptomatic of most trancies. Students who are truant are not avoiding school because they are having success at school. Many are being bullied and others are having trouble "fitting in" in other school settings. Students do not avoid going to their schools because they are across the street from their homes. Some students in Pennsylvania are asked to board buses miles from their homes in the dark and are dropped off in the dark after school. Many parents choose to keep their children home due to safety factors inherent in rural busing. Other students do not "fit in" at a traditional school setting, but find success working independently via our on-line delivery system. This bill could prevent a student from obtaining the exact alternative education that the student needs to meet compulsory attendance expectations.

Many of my former colleagues in "bricks and mortar" schools believe a truant child is lazy or avoiding personal responsibility. In some cases either may be true. However, in my thirty five years in public education, I find other reasons for chronic truancy and I find reasons far beyond laziness or irresponsible behavior.

There are professionals in the county agencies who agree that cyber schools serve as a viable option for many of these children. I have been working with some of these professionals to develop a program to educate students who are identified as "truant". I have attached their letters of support to this testimony. Recently we proposed a partnership with a local "bricks and mortar" school to address the issue of truancy in that community. The partnership included the cooperation of the local Children and Youth Agency and local Youth Advocacy Services. We believed the plan could serve as a model, or at least a pilot, for the entire state. The proposal we made was flatly declined by the local district.

Joint Testimony of Dennis Tulli, Chief Executive Officer
and Maurice Flurie, Assistant to the CEO
Commonwealth Connections Academy
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In addition to the above, House Bill 2320 serves as a mechanism to deter school choice by providing school districts with a legal avenue to delay or prevent student enrollment at cyber charter schools. School districts could unreasonably fail or refuse to provide the necessary certification of a student's compulsory school attendance to the cyber school, thereby denying any student admission to a cyber charter school, regardless of whether that student complies with applicable compulsory attendance requirements.

Moreover, requiring a cyber charter school to provide evidence that a student is receiving instruction and completing assignments monthly is not only an onerous burden on cyber schools, it sets a negative tone for the student's academic career at a cyber school. The student is under constant scrutiny from both the charter school and the district of residence in the first three months of the student's attendance. Rather than a fresh start at a new school of choice, the formerly truant cyber student is subjected to more oversight than any other student at any other type of school in the Commonwealth for compulsory attendance issues that may resolve as a result of the student's new academic environment.

Over the past three years Commonwealth Connections Academy has helped countless children whose families have come to us because the traditional school setting in their community was preparing to prosecute the parents for their child's excessive unexcused school absences. In almost every case those students were able to get back on track and successfully completed necessary credits.

I hope you consider the information I have provided as you seek to ensure our state remains a leader in providing a quality educational program for the citizens of Pennsylvania, because we offer families choices in the education of their children.

Pennsylvania
Ohio Maryland
Leadership
Team

David L. White
President

Michael J. Garrigan
Executive
Vice President

Janet Crawford
Vice President

Christopher Shaak
Vice President

Cheryl Reeling
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Jessica Carlton-
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Vice President

Christopher Derk
Regional Director
Maryland

March 12, 2010

Dr. Dennis Tulli, CEO
Commonwealth Connections Academy
4050 Crums Mill Road
Suite 303
Harrisburg, PA 17112

Dear Dennis,

This letter is to serve as my support for the utilization and implementation of Cyber/Home School Programs, specifically as a viable component to a truancy elimination plan or program.

Youth Advocate Programs, Inc. contracts and collaborates with Lebanon County Children and Youth to provide in-home and community based services to intervene on behalf of chronically truant youth. We believe that the utilization of cyber schooling for these at-risk, truant youth is a creative and effective alternative to the traditional "brick and mortar" alternative schooling. Cyber schooling for youth who are paired up with trained adult advocates could give students, who have fallen so far behind academically due to chronic truancy, the opportunity to get back on track and possibly return to traditional schooling.

Youth Advocate Programs, Inc. looks forward to working with you in partnership with Lebanon County Children and Youth in making this idea and collaboration successful.

Sincerely,

Christopher A. Shaak
Vice President
Youth Advocate Programs, Inc.

Member
PA Community Providers Association
National Council for Community Behavioral Healthcare (NCCBH)
Accredited by Council on Accreditation





Lebanon County Children & Youth Services

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March 11, 2010

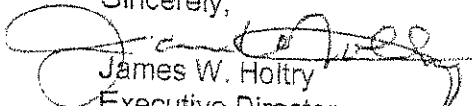
Dear Dennis:

This is to reiterate my support and firm belief that the utilization of Cyber Schools/Home School programs is a viable option to combat the issue of truancy. I've been with Lebanon County Children and Youth Services for over 30 years and old traditional ways of working with truants has proven ineffective for a percentage of these youth.

Developing a program, as we've discussed through the utilization of Cyber Schools and the Youth Advocate Program INC, is a creative new approach which I believe needs to be explored and piloted and may very well resolve the issues related to some cases of truancy in the typical "brick and mortar" type setting. Just this week, we've reviewed a case in which this option may very well become a reality as other means have not proven successful.

I look forward to working with you in partnership with the Youth Advocate Program in making this process successful. New and creative ideas need to be tried. If you are in need of additional support or comments, please feel free to contact me.

Sincerely,


James W. Holtry
Executive Director

Testimony on HB 483
The Pennsylvania Cyber Charter School

The aim of HB 483 as presented is clear. The proposal would cut off vital public cyber charter school funding and in the process prevent Pennsylvania families from exercising their legal right to public school choice. Once again barriers would be placed in front of our children, denying them the ability to attain quality early education regardless of their economic or social standing. To even consider this bill, the General Assembly would discount all gains made over the preceding 13 years on behalf of Pennsylvania families and disregard their own pioneering work in Act 22 of 1997 (Charter Schools Act) and subsequent amendments to the Charter School Law in 2002.

The proposed revision in HB 483 specifically singles out cyber charter schools and permits brick and mortar schools to not fund those students who attend cyber charter schools where the cyber school has a minimum age requirement lower than that provided by the resident district. Per existing law, this funding is mandatory. HB 483 seeks to overturn the ruling by the Pennsylvania Commonwealth Court in Slippery Rock Area Sch. Dist. v. PA Cyber Charter Sch., 975 A.2d 1221 (Pa. Commw. 2009) that upholds such funding denial by school districts to be illegal.

In Slippery Rock Area School District v. Pennsylvania Cyber Charter School, the Commonwealth Court ruled the school district's admission policy is irrelevant in regard to the cyber charter school's own kindergarten policy, and affirmed the order of the Secretary of Education that the district must release the funds. Most importantly, the Commonwealth Court recognized that cyber charter schools are independent public schools and that the intent of the General Assembly in enacting the Charter School Law was to create schools that operate

independently from the existing public school district structure and to provide parents and pupils with expanded choices in educational opportunities. The Pennsylvania Supreme Court (Mosaica Acad. Charter Sch. v. Commonwealth, 813 A.2d 813 (PA. 2002)) has also recognized that the General Assembly went to great lengths to permit the establishment of charter schools that operate independently from the existing school district structure. It would thwart the purpose if school districts were required to fund only those programs of the cyber charter school which mirrored the programs offered by the school district.

The Charter School Law at Section 1702 specifically states that it is the intent of the General Assembly to “provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure” in order to “...increase learning opportunities for all pupils”...”create new professional opportunities for teachers”...”provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.” 24 P.S. Section 17-1702-A. By attempting to limit the funding for students who choose to attend cyber charter schools in the manner proposed in HB 483: parent and student choice in educational opportunities will be hindered, not expanded; learning opportunities will be decreased, not increased; and professional opportunities for teachers who would perhaps be hired to fill open Kindergarten positions in cyber charter schools will be mired, as well as existing Kindergarten cyber charter teachers may need to be laid off.

Before Governor Edward G. Rendell took office, Pennsylvania was one of only nine states that failed to fund pre-kindergarten. Well, like cyber charter schools that existed before him, Governor Rendell got it too. He has said that early childhood education is the foundation of our academic progress. According to Governor Rendell, "Every dollar that we invest today generates enormous future savings by avoiding unnecessary special education costs, dropouts,

unemployment, criminal justice expenditures and lost tax revenue." Despite cuts to the 2009-10 state budget, Governor Rendell protected funding for Pennsylvania's three core early childhood programs: Pennsylvania Pre-K Counts, the Head Start Supplemental Assistance Program, and the Accountability Block Grant. The current administration understands the merits of affording quality early childhood education and its lasting impact.

The revision proposed in HB 483 would allow school districts to dictate their policies to the cyber charter schools and would allow the brick and mortar to determine the cyber charter schools' admission policies, all of which would mean that cyber charter schools are not operating independently and are not increasing learning opportunities. The effect of this bill is to limit education opportunities for PA families, to potentially take away teaching jobs from Pennsylvanians and in doing so singling out cyber charter schools and treating them differently than other public schools. Do the sponsors of this bill wish to infringe upon the rights of cyber charter students and be pegged as limiting educational opportunities for Pennsylvania families?

The Pennsylvania Cyber Charter School and the Pennsylvania Coalition of Charter Schools urges the House Education Committee and the General Assembly to rebuke HB 483 and to stand with Pennsylvania families and their right to public school choice.

Thank you.

Andrew Oberg
Executive Director
The Pennsylvania Cyber Charter School

Testimony of Jon D. Marsh
Chief Executive Officer
21st Century Cyber Charter School
House Education Committee
March 17, 2010

I am the Chief Executive Officer of 21st Century Cyber Charter School ("21st CCCS"). I would like to thank Chairman Roebuck and members of the House Education Committee for giving me an opportunity to speak today. I will be addressing House Bill No. 2036. While I support and aid numerous districts in creating their own online programs, this House Bill neglects the important fact that not all cyber programs, districts, or Intermediate Units are the same.

First, please allow me to begin by providing my unique perspective on House Bill No. 2036. The Intermediate Units of Bucks, Chester, Delaware, and Montgomery Counties have already collaborated to form a cyber school: MINE!

21st CCCS is a cyber charter school for students in grades 6-12 located in Exton, Pennsylvania. 21st CCCS first received its charter in 2001 through the West Chester Area School District. Our school's board of trustees consists of four executive directors of area intermediate units, eight superintendents, and one parent of a 21st CCCS student. Our school's charter was renewed by the Pennsylvania Department of Education in 2006, and 21st CCCS continues to provide students with the unique opportunity to receive quality instruction in an online asynchronous environment where teachers create an individualized educational setting in which students with a variety of strengths can achieve academic success. The current enrollment at 21st CCCS is 614 students. 21st CCCS continues to serve students and families from more than 230 school districts in fifty-five counties across the Commonwealth. 21st CCCS has notably achieved AYP for five consecutive years.

21st CCCS teachers focus on "teaching the child". Some of my counterparts' teachers focus on "teaching the parents that teach the child". This is a minor difference to some, but a major difference to the parents that have made that choice for their children. 21st CCCS operates in an asynchronous model with classes available 24/7 and our Pennsylvania certified teachers are available to students from 9:00 a.m. to 4:00 p.m. and from 6:30 p.m. to 8:30 p.m. We at 21st CCCS believe that teachers need to be available to the students when the students need them (within reason).

Because of the unique composition of our board, I have been working with a number of school districts over the past few years that are trying to build

Testimony of Jon D. Marsh
Chief Executive Officer
21st Century Cyber Charter School
House Education Committee

March 17, 2010

their own online programs. Only one of these districts has more than a dozen students and most only have one or two classes that they developed. In most district cyber programs teachers are only available after they have completed their regular classes, or when they are available for a period to work with their cyber students. This model would not work for most of my students and their families.

This is not to say that our model is right for every student, or that other online programs are wrong. At 21st CCCS, we developed, through research, trial and error the curriculum, and delivery model that best meets the needs of our online learners. I personally believe that it is better than the commercial products available. However, I admit that I am a bit biased.

Some students do need more structured schedules than we provide and we direct them to the cyber school that more appropriately fits their needs. Simply put, students are different, teachers are different, parents are different and they are all served well when there is a choice of learning and working options available to them.

As you know, it was the intent of the General Assembly, in enacting Pennsylvania's Charter School Law, to provide parents and community members with opportunities to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish specific goals. Among these goals is providing parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system. (24 P.S. 17-1702-A). In 2002, the General Assembly enacted Act 88 to further foster the establishment of cyber charter schools and school choice throughout the Commonwealth. 24 P.S. 17-1745-A.

I would like to provide some historical rationale for our opposition to the proposed language in House Bill 2036. Supporters of cyber charter schools have faced unwarranted opposition to their existence from some school districts since their inception in this Commonwealth. For instance, in 2002, multiple school districts refused to pay cyber charter school invoices as required by law. The districts' refusal spawned costly litigation and expenses on the part of cyber charter schools and the students they served. Pennsylvania School Boards Assoc., Inc., et. al. v. Zogby et. al., 802 A.2d 6 (Pa. Cmwlth. 2002), appeal denied by Pennsylvania School Boards Ass'n, Inc. v. Zogby et. al., 573 Pa. 687, 823 A.2d

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Chief Executive Officer
21st Century Cyber Charter School
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146 (Pa. Jun 03, 2003); Pennsylvania School Boards Ass'n, Inc. v. Zogby et. al., 573 Pa. 687, 823 A.2d 146 (Pa. Jun 03, 2003). Those school districts filed a petition for review with the Commonwealth Court of Pennsylvania challenging a withholding of subsidies by the Secretary of Education after the Pennsylvania Department of Education sent a letter stating that it would withhold state education subsidies from districts that refused to pay tuition bills submitted by cyber charter schools. The Commonwealth Court unequivocally held that the school districts lacked standing to challenge the legality of cyber charter schools and that the Charter School Law did not prohibit cyber charter schools. In 2003, the Supreme Court refused to consider the issue on appeal; further sustaining the viability and legality of cyber charter schools in Pennsylvania.

House Bill No. 2036 will impermissibly curtail school choice in Pennsylvania as contemplated by the Legislature. School districts that have not supported cyber charter schools since their inception see creation of district-run or Intermediate Unit-run cyber schools as a means to oppose the free enrollment of students in independent cyber charter schools. Additionally, students currently attending well-established and reputable cyber charter schools such as 21st CCCS, will be forced to attend district-run cyber schools that lack the same core values, vision, reputation, and academic rigor. Economically disadvantaged students would have little or no ability to pay the tuition required for attendance at their schools of choice.

House Bill No. 2036 similarly fails to address the fact that just because a district-operated or Intermediate Unit-operated cyber school may exist as an option, does not necessarily mean that such schools offer a good, or even adequate, educational program for students. House Bill No. 2036 seems to convey the notion that all cyber schools fit one mold or model. They do not. Furthermore, unlike cyber charter schools established in accordance with Act 88, it does not appear that the same regulations will exist for district-run or Intermediate Unit-run cyber programs that would ensure that the students enrolled in such programs are receiving a quality online education. This is a disservice to our students.

The last item I would like to address is the curriculum development/acquisition process. Many of the districts I work with originally believed that the "Cyber School in a Box" was the answer to their problems. It is a simple, inexpensive way to offer a district-run cyber school curriculum. PSBA

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Chief Executive Officer
21st Century Cyber Charter School
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even advertises one of these, allegedly, as a solution to push the cyber schools out of a district. However, to my knowledge not one of these "cyber" schools has a proven record of anything other than allegedly saving money, and not one has made AYP. Did I mention we made AYP the past five years in a row?

Just because you rent a class does not mean that kids will be successful. Many of the classes are online correspondence courses. That may work for some, but very few. When I became the Chief Executive Officer of 21st Century Cyber Charter School in 2003 our pass rates with many of these classes were less than 25%. That is why we decided to create our own teacher-developed curriculum. Now, I am proud to tell you that our pass rate is 90% per class. These online correspondence courses may be an easy way for a district/IU to claim they have a cyber school, but it does not even come close to the program that 21st Century Cyber Charter School offers to our students and families in my opinion.

In conclusion, forcing students who seek an online educational program to choose a district-run program or face costly tuition payments in order to receive an education at the cyber school of their choice, directly disregards the purpose and intent behind the Charter School Law and deters educational autonomy and progress in Pennsylvania. I leave you with this thought: Clayton Christensen, a Professor at the Harvard Business School, wrote in his book, Disrupting Class, that "by the year 2019, about fifty percent of all high school courses will be delivered online." It would be against public policy, and disregards the success we have demonstrated with our students to enact legislation that would dramatically limit options for the delivery of that instruction.

I thank you for your time and consideration today.

Testimony of Beth Santangelo
Parent of a Pennsylvania Virtual Charter School Student
House Education Committee
March 17, 2010

Chairman Roebuck, Chairman Clymer and the respected members of the Education Committee, my name is Beth Santangelo and I am a 20-year resident and taxpayer from Abington, Pennsylvania. I have five children and pay real estate taxes to the Abington School District.

My five children vary in age from 10 to 18 and each one of them is a unique person with a separate personality and their own challenges when dealing with education.

My husband and I chose to enroll our children in the Pennsylvania Virtual Charter School because our local brick and mortar public school could not fulfill the educational needs of our children. The decision paid off. We have enjoyed seeing each child grow and learn at his or her own pace. We have seen our children develop academically, socially, emotionally, spiritually and physically.

We feel the public cyber school choice has allowed our family to grow closer. With a large family the flexibility allows us to remain active in the community and participate in multiple activities while maintaining a healthy life balance.

I would like to focus my comments now on proposed House Bill 2036. This legislation proposes that if a student's resident school district or intermediate unit operates a cyber program and the student attends another public cyber charter school other than the district-run cyber program, neither the Commonwealth nor the school district shall be required to provide funding and the parent will have to pay the educational costs.

I live in the Abington School District in the Montgomery County Intermediate Unit, which provides the Brandywine Virtual Academy course catalogue. If HB 2036 is passed I will be required to pay tuition of approximately \$8,000 per child or \$40,000 a year to exercise my right under the Charter School Law to send all of my children to a public school.

Act 22 of 1997, the Charter School Law, claims as its Legislative Intent that "it is the intent of the General Assembly, in enacting this article, to provide pupils and community members to establish and maintain schools that operate independently from the existing school district structure" and "to provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system."

The language in House Bill 2036 is contradictory to the intent of the Charter School Law. The passage of House Bill 2036 would deny me and my children the educational opportunities Act 22 was enacted to permit. My husband and I found that the local brick and mortar public school was not able to meet our needs. We chose to become more actively involved in our children's education in order for them to succeed academically and socially. The cyber public school option met our needs.

Testimony of Beth Santangelo
Parent of a Pennsylvania Virtual Charter School Student
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The Charter School Law was written to help families like mine with children who have different learning styles choose opportunities that best fit their needs and flourish as students and in the community.

House Bill 2036 not only takes away that ability to choose. It negates our decision to find the best opportunity for my children. HB 2036 creates a protected class of public education and extends the monopoly that is the brick and mortar public school system. The consequences of this House Bill would be that public brick and mortar schools would no longer be subject to the competition and options the charter school law was written to ensure.

HB 2036 would mandate the Abington School District, which already has proven to not be the best option for my children, as their only publicly funded public school option. In essence, your passage of House Bill 2036 would force me to return my children to a public school district that previously failed to provide them with an education that would meet their needs.

Many traditional public school districts and Intermediate Units in Pennsylvania are developing or purchasing their own cyber charter programs. As a parent that has children who are successful students in Pennsylvania public cyber charters schools I understand that the Charter School Law was written to foster education choice and serve as an incubator to grow new successful educational programs. I applaud these districts and want to believe they will pull the best components from the public cyber charters and implement them in district programs because they want the best for their students.

However, the language in House Bill 2036 makes me wonder if there might be another incentive altogether. The actions and press clippings of school districts proposing their own cyber programs also seem to have a different agenda in mind. One can't help but wonder if the agenda is strictly about trying to balance already bloated public school budgets.

North Schuylkill School District Superintendent Andrew Smarkanic is quoted in the Feb. 26, 2010 Pottsville Republican Herald as saying that the district's cyber program would "save the district money by 'reclaiming' the students lost to cyber charter schools." He says the school's program can educate a child for \$3,000 a year. That may be true, but those students are already enrolled in the district and their other classes, visits to the school nurse, guidance counselor conferences and other services are accounted for in different parts of the budget. My public cyber charter school has to account for all of those costs for every child or it places its charter and very existence in jeopardy.

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A headline in the Monday, March 15, 2010 Hazleton Standard-Speaker highlights that the Hazelton Area School District's cyber program saved the district \$240,000. "What we're looking at more is the cost avoidance," (program coordinator Michele Medek) said. "That's around 29 kids who could've left the (Hazleton Area) school district in search of other cyber schools. We would've lost that money to another provider."

All of these comments regarding cost per student and treating education as a commodity lose sight of an important point about education. Education should be about the best interest of the child. Every child should be entitled to an education that best fits their needs.

In these tough economic times we must remember that the best long-term economic strategy is to strengthen public education for all children and prepare them for the 21st Century workplace. The best way to strengthen education is to focus on our children and allow them to choose an appropriate and effective education that best fits their needs. Mandating school assignment has already proven to be ineffective.

In closing, let me take a few moments and introduce what is at the heart of this matter for me -- my five children. The public cyber school option has made a major difference in each of their lives.

My daughter Jennifer is currently a high school senior and while she is a talented student she falls just under the gifted designation. At her brick and mortar public school this meant she was entitled to enrichment programs that included participating in reading groups with much older students, tutoring classmates and reading to Kindergartners while her teacher did other work. We chose to enroll her in the Pennsylvania Virtual Charter School as a fifth-grader and she remained there until she was in eighth grade. The flexible scheduling allowed her to choose to compete in gymnastics, play the cello, be active in the Meals on Wheels program, and participate in the Reading Olympics. She left PAVCS briefly to attend PA Cyber Charter School while studying with the Sandanato Ballet School in Philadelphia and is now a senior at a private high school academy with a 3.6 GPA. Jennifer is a varsity cheerleader and trying to decide between Merit Scholarships in the Honors Colleges at West Chester University, LaSalle University and Penn State University's Main Campus.

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My son John enrolled in PAVCS in 2002 after being designated both Gifted and Learning Disabled by his brick and mortar public school. By choosing PAVCS, John was allowed to learn at his own pace and feel good about it. He choose to join a cross-country team, played soccer and baseball, took part in Meals on Wheels, learned the violin, competed in gymnastics with Temple University, and was on the PAVCS LEGO robotics team. Now he is a junior at a private college prep school with a 4.1 GPA (due to Honors and AP classes). John is a member of the National Honor Society, plays on the cross country, bowling and track teams; tutors inner city students, helps train other inner city high school students for marathons, and is planning a mission trip to Montana this summer to work on the Blackfoot reservation.

Valerie is very shy and would fall apart at home in her first year at her brick and mortar public school. As the year went on we found out she was being utilized in class as "the good one" and would be assigned a seat next to struggling students. We chose to keep Valerie at PAVCS until she was in eighth grade because the school allowed her to flourish and develop socially as well as academically. She chooses to be on a competitive gymnastics team, is a Girl Scout, plays soccer and softball, runs on a cross-country team, dances with the Metropolitan Ballet in 2-3 shows annually, and participates in the PA Ballet Nutcracker. She is now an Honor Roll freshman at a private college prep school with a 3.8 GPA and was a Varsity member of the cross-country team as a freshman. She also participated in indoor and spring track. She is a member of several school clubs, performed 12 hours of community service, was nominated to serve on student council in her sophomore year and was recommended for the honors option available to sophomores.

I still have two children enrolled at PAVCS. Maria, currently in seventh grade, was enrolled for a year in the PA Leadership Cyber Charter School to take part in its Performing Arts program before we chose to enroll her at PAVCS. While at PAVCS she chooses to take part in gymnastics and cross-country, dance with the Metropolitan Ballet in 2-3 performances annually, participate in the Meals on Wheels program, learn violin, take art classes, and perform with the PA Ballet in multiple roles including Sleeping Beauty. Maria has been in the PA Ballet Nutcracker for four years with the most recent being "Marie" (lead) in both Washington D.C. at the Kennedy Center and Academy of Music performances.

My youngest, Michael, is a fifth grader at PAVCS who works one year above grade level in Math and Language Arts. He also chooses to find time for gymnastics, cross-country, soccer, baseball, Meals on Wheels, art classes, violin lessons, Reading Olympics, Presidential Fitness, community service, karate, and the PAVCS Latin program.

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As you can see, public cyber schools are making a difference in the lives of my children and thousands of others across the state. You will note that a common theme throughout is choice. Our school is a school of choice.

Public cyber charter schools give poorer families living in distressed or low-performing school districts a choice to get the same type of education afforded to families in affluent districts. Public cyber charter schools give parents with children whom have disabilities the choice to pursue alternative approaches to living with learning disabilities. Public cyber charters allow children in rural communities to go to school with urban peers. The legislature should embrace the innovation that allows enrollments not bound by traditional physical or geographic limitations.

House Bill 2036 however is built on the notion that parents should pay tuition for choice. In my case, with five children at an average of \$8,000 per child it would cost my husband and me \$40,000 a year to send my children to a public cyber school.

I do not want the schooling of my children to be bartered as a cost-saving measure in a public school system that habitually has problems balancing its budgets and am appalled that the House Education Committee is contemplating legislation that reduces children's education to mere line-item budget status.

I am not opposed to public school districts expanding their options and allowing students more flexibility in education. Children in Pennsylvania should have equal access and opportunity to find the education that best fits their needs.

I do not think there should be a protected class of traditional public brick and mortar schools districts. It is clear that Congressmen Mowery, Salvatore, Hart, Tomlinson, Jubelirer, Afflerbach, Thompson, Musto, Kasunic, Rhoades, Helfrick, Delp and Piccola felt the same way in 1997 when they drafted the Charter School Law as did the 182 Representatives who voted in favor of the act and Governor Tom Ridge who signed it into law on June 19, 1997.

Thank you for your time and consideration this morning.

Testimony of William Winters

Chief Executive Officer

Collegium Charter School

House Education Committee

March 17, 2010

I am the Chief Executive Officer of Collegium Charter School. I would like to thank Chairman Roebuck and members of the House Education Committee for giving me an opportunity to speak today. I will be addressing House Bill No. 2328 (formerly House Bill No. 101).

Collegium Charter School is located in Exton, Pennsylvania. We received our charter in 1999. Since that time, our charter has been renewed twice. Collegium's current enrollment is 1,430 students in K through 12th grade, and current enrollment for the 2010-2011 academic year stands at 1630. Collegium continues to serve students and families from more than fifteen school districts in Chester, Delaware, and Lancaster counties with more than 90% from the Downingtown, Coatesville and West Chester School Districts. Currently, Collegium has 1,360 students who receive transportation from their school district of residence. Collegium's academic performance is attested to by having made AYP six of the last seven years.

As you know, it was the intent of the General Assembly, in enacting the Pennsylvania Charter School Law, to provide pupils and community members with the opportunity to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish several goals. These goals include providing parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system. (24 P.S. 17-1702-A).

Concerning House Bill No. 2328, some historical context is required. In 2002, the Pennsylvania Supreme Court addressed transportation regarding charter schools in Mosaica Academy Charter School v. Pennsylvania Department of Education (572 Pa. 191 (2002)). In that case, the Supreme Court noted that there was a degree of ambiguity in the Legislature's cross-reference to Section 1361 in Section 17-1726-A of the Charter School Law. According to the Public School Code of 1949 (24 P.S. § 13-1361), transportation of pupils attending

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nonpublic schools was to be provided during regular school hours on such dates and periods that the nonpublic school not operated for profit was in regular session, according to the school calendar officially adopted by the directors of same in accordance with provisions of law. The Court concluded that the General Assembly elected to require transportation to resident students attending a charter school located outside of its district by incorporating Section 1361 to define the level of transportation to be provided to non-resident students.

The Legislature then addressed any perceived ambiguity by amending the law in December 2002 (24 P.S. 17-1726-A). The Charter School Law now mandates that students who attend a charter school located in their school district of residence, a regional charter school of which the school district is a part or a charter school located outside district boundaries at a distance not exceeding ten (10) miles by the nearest public highway shall be provided free transportation to the charter school by their school district of residence whether or not transportation is provided on such dates and periods to students attending schools of the district.

Regarding House Bill No. 2328, while the intent of the prime sponsor may be a good faith attempt to address the needs of all school entities in light of the current economic climate, such legislation will have consequences for charter schools. House Bill No. 2328 will help to eliminate school choice in Pennsylvania. If a school district that does not transport resident school district students on a daily basis is not required to transport students who attend a charter school or regional charter school, students who may have chosen to attend a charter school outside of their school district will be deterred from doing so. The expense and inconvenience of devising some sort of alternative transportation will thwart the motivation of students and parents to search out "expanded choices in educational opportunities", thereby defeating the intent of the General Assembly in its enactment of the Charter School Law.

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Chief Executive Officer

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Another potential landmine associated with House Bill No. 2328 is that school districts could cease busing all children. According to the proposed legislation, if the school district does not transport resident school district students on a daily basis, it would not be required to bus charter school students. With the current backdrop of economic hardship, the cost savings to a school district could win out over the basic transportation of all school district students. This has happened before; specifically in 2001 with regards to Collegium. On the Thursday before Memorial Day in 2001, we were abruptly informed that certain districts would no longer bus our students beyond the 180 days of their school district calendars. Collegium had to undergo the expense of filing for an injunction to continue busing by the districts. The Legislature then enacted the current law, which requires districts to bus charter school children on days and times when the district is not in session. If the General Assembly believes that districts who refuse to bus do not have to transport charter school students (whose parents all pay school district taxes), the Commonwealth should provide the transportation subsidy to the charter school.

Also problematic would be the financial windfall achieved by school districts that do not transport charter school students. As you know, charter schools are to receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year minus the budgeted expenditures of the district of residence for, among other items, student transportation services, an amount to be paid by the district of residence. 24 P.S. § 17-1725-A(a)(2). Pursuant to the Public School Code of 1949 (24 P.S. § 25-2591.1), the Commonwealth is to pay to each school district with resident students enrolled in a charter school during the immediately preceding school year an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a).

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In addition, school districts that are not transporting students to charter schools are withholding for transportation services they are not providing. Furthermore, pursuant to the Public School Code of 1949 (24 P.S. § 25-2509.3), each school district shall be paid the sum of three hundred eighty-five dollars (\$385) for each charter school pupil transported. Charter schools would bear the brunt of such financial windfalls by school districts. If the school districts do not bus the students, such school districts should not receive the transportation subsidy. Instead, both the withheld amount and any subsidy should be given directly to the charter schools to support charter school student transportation.

I thank you for your time and consideration today.



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SECRETARY OF EDUCATION

March 17, 2010

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The Honorable James Roebuck
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Pennsylvania House of Representatives
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PO Box 202188
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The Honorable Paul Clymer
Minority Chair, Education Committee
Pennsylvania House of Representatives
216 Ryan Office Building
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Dear Chairmen Roebuck and Clymer,

Please accept my apologies for our absence today. As my office explained, both the Deputy Secretary for Elementary & Secondary Education and I are presenting Pennsylvania's Race to the Top application to the U.S. Department of Education review panel in Washington D.C. Once again, thank you for the opportunity to submit PDE's recommendations in writing.

Pennsylvania's Charter School Law was enacted in 1997 to provide students and school administrators opportunities outside of the existing education structure. More than 10 years in, we have moved beyond the experiment. Charter schools are established in Pennsylvania. There are 124 bricks-and-mortar charter schools and 11 cyber charter schools in our commonwealth. Last year they served approximately 95,000 students. Our experience with charters in many ways reflects our experience with school districts. We have successful schools. We have failing schools. Our job now is to use what we've learned to implement policies that help us extend our across-the-board achievement gains.

Pennsylvania and the nation have set the highest expectations on our educators and students. We are demanding universal achievement and accountability. Charter schools are an important component of this reform. There are several areas where we believe the Charter School Law can be improved. Our best charters show us better ways to reach students. We should make it easier for other schools learn from these practices. Conversely, we have charter schools that are failing year-after-year – there are 14 charter schools and four cyber charters are in Corrective Action – we need better flexibility to

hold these schools accountable. Our cyber charter costs structures can be improved. Tuition rates vary from school to school. We should make rates align. Lastly, cyber charters need caps on unreserved fund balances so our investments are spent as intended.

While not on today's agenda, House Bill 1802, introduced by Rep. McIlvaine Smith, contains provisions addressing these issues. Despite dramatically different cost structures, cyber charter schools are funded the same as bricks-and-mortar charters. The school district of residence for each charter student is required to pay the charter a per-student rate based on the resident school district's own costs. These tuition rates vary widely. During the 2007-08 school year, tuition ranged from a low of \$5,400 for students from Reading School District to a high of \$15,000 for students from Jenkintown School District. The same education costs Jenkintown taxpayers nearly \$10,000 more than taxpayers in Reading.

HB 1802 brings sense to the law. Consistent with a recommendation from the Task Force on School Cost Reduction, it establishes regular and special education tuition rates for cyber charter schools based on the most efficient and effective cyber charters. Tuition will tack with inflation in the years ahead.

HB 1802 establishes an unreserved, undesignated fund balance limit for cyber charters. Last year, cyber charters held a combined \$10 million in these balances. HB 1802 places a limit that is consistent with laws in place for school districts, providing better assurances that money is being spent on students as it is intended.

Lastly, under HB 1802, the Department of Education is required to produce an annual report and assessment on all of our charters. We would identify schools whose students are academically out-performing peer students, determine the practices that are behind the schools' success, and makes recommendations for any needed changes in legislation or policy to spread these practices throughout the commonwealth. If Pennsylvania's Race to the Top plan is fully funded by the federal government, we would invest a portion of the funds in a charter office to achieve this end.

HB 1802 promotes equity and accountability for charter schools while maintaining the intent of the law that established them. The bills under consideration today address specific concerns that arise when the Charter School Law crosses into local school board policy.

HB 483 and HB 1362 will enable school districts to more effectively budget. There is a fine line to walk. On the one hand, school districts cannot anticipate payments for student populations they currently do not serve; on the other, quality educational opportunities should be available to all. The Rendell administration and the General Assembly have devoted extraordinary resources to early childhood education other strategies proven to boost student achievement in recent years. Pre-K Counts, Accountability Block Grants and basic education increases provides dedicated funding that may be used for early childhood education in all communities.

Rep. Moul's HB 2036 targets a burgeoning issue in the state and nation. As more schools and districts catch up with technology and its capabilities, administrators are providing more online programs and courses. The state is ramping up its involvement. In December 2009, Pennsylvania's Virtual High School Study Commission recommended the state establish a virtual learning program to supplement the good work being done on the local level. In January 2010, this Education Committee reported out Rep. O'Neill's resolution requesting the Legislative Budget and Finance Committee review the costs associated with the findings and Pennsylvania's Race to the Top application would devote some of these federal funds to the development of additional virtual learning opportunities. We need to examine how this development affects the relationship between cyber charter schools and school districts.

PDE supports the idea behind Rep. Tallman's HB 2328, which applies the local determination on transportation to charter school students. Currently, school districts must provide free transportation for charter school students even if the school district does not provide free transportation to its own students. We believe that charters should be treated in the same manner as non-public schools in that the school district should only be required to transport charter students if transportation is provided to students enrolled in the school district. This policy should also take into account the provision of transportation if required in an Individualized Education Plan. In certain cases, a school district may not provide free regular transportation for students to district schools but would provide free transportation for students with disabilities. School districts must adhere to the IEP regardless of their broader transportation policy.

Rep. Pallone's HB 2230 shifts responsibility of pursuing truancy charges to the cyber charters and PDE agrees with the premise. Current law places too much burden on the resident school district. A student has the right to choose to enroll in a cyber charter school and if the student becomes truant while enrolled in the cyber charter school, the responsibility is handed back to the student's school district of residence. HB 2230 places the responsibility where it belongs.

The Department of Education appreciates the concerns brought forth in each of these bills. We regret being unable to answer your questions today, but are available to meet with members on this specific legislation and any other issues affecting students in our commonwealth. We look forward to continuing our work with you in the days and months ahead.

Sincerely,

A handwritten signature in black ink that reads "Gerald L. Zahorchak". The signature is written in a cursive, slightly slanted style.

Gerald L. Zahorchak, D.Ed.

