



Senate Education Committee

Senator Jeffrey E. Piccola
Chairman

Dave Transue
Executive Director
dtransue@pasen.gov

Diane McNaughton
Deputy Executive Director
dmmcnaughton@pasen.gov

Karen Seivard
Committee Counsel
kseivard@pasen.gov

Room 173 Capitol Building, Senate Box 203015, Harrisburg, Pennsylvania 17120-3015 • 717-787-6801 • 717-783-3722

PUBLIC HEARING ON SENATE BILL 982
Wednesday, April 14, 2010
Hearing Room 1, North Office Building, Harrisburg
12 noon to 1:15 p.m.
Agenda

12:00 PM – 12:05 PM

Opening Remarks

The Honorable Jeffrey E. Piccola, Chairman

15th Senatorial District

The Honorable Andrew Dinniman, Minority Chairman

19th Senatorial District

12:05 PM – 12:15 PM

The Honorable Edwin B. Erickson

26th Senatorial District

Recognition of Prime Sponsor

12:15 PM – 12:35 PM

John Tommasini

Pennsylvania Department of Education

12:35 PM – 12:55 PM

Geoff Axe, Director

Valley Day School

**Dr. Scott Spreat, Vice President
Services**

Behavioral Health at Woods

(on behalf of the Alliance of Approved Private Schools)

12:55 PM – 1:15 PM

Donald E. Rhoten, Superintendent

Western Pennsylvania School for the Deaf

(on behalf of the Pennsylvania Chartered Schools for Deaf and Blind Children)

**John Tommasini, Director
Bureau of Special Education
Pennsylvania Department of Education
Testimony before the Senate Education Committee
Hearing on SB 982
April 14, 2010**

Good afternoon Senator Piccola, Senator Dinniman, and Committee. Thank you for the opportunity to discuss Senate Bill 982 with you today.

Two concepts direct special education policy in our state and nation. Students must receive a free, appropriate public education that will prepare them for college or careers after high school; this education must take place in the least restrictive environment. In every possible instance, students should be placed in a classroom with their peers. The tough reality is, in extraordinary circumstances, students need more services than can be provided by a local school district. Approved Private Schools (APSS) and Chartered Schools for the Deaf and the Blind help serve this niche.

The Secretary of Education approves APSS and Chartered Schools for the Deaf and Blind to provide a free, appropriate public education to students with severe disabilities. Pennsylvania currently has four Chartered Schools and 30 APSS, for which the Department of Education approves funding. These schools serve more than 3,500 day and residential students. Placement is based on the individual needs. To enroll a student in an APS, state regulations require, among other things, the schools must provide:

- The appropriate level of intervention,
- The appropriate location of intervention, and
- The appropriate grouping of students.

Generally, the only justification for removing a child from the student's regular educational environment is when the nature or intensity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved. When a school district and the parent agree that the only source of an appropriate program of education for an eligible student is in an APS or Chartered School, the recommendation and supporting documentation is forwarded to the Bureau of Special Education for final approval or disapproval of payment. Costs for school age students placed in APSs and Chartered Schools are shared between the school district of residence and the commonwealth, with the state picking up approximately 60 percent of the tuition cost.

The state's APS and Chartered School allocation is connected to the state's special education appropriation. The existing formula was developed in conjunction with the APSs and Chartered Schools as part of Act 70 of 2004. In 2009-10, the commonwealth provided more than \$1.026 billion dollars for its special education allocation, \$98 million for its APSs and \$36.8 million for its Chartered Schools. The same amounts are budgeted for 2010-11. Through the federal American Reinvestment and Recovery Act, school districts will receive a total of \$427 million for special education over the 2009-10 and 2010-11 school years. This one-time federal funding stream is not factored into state law.

SB 982 seeks to address the impact on Approved Private Schools and Chartered Schools by changing the basis of their funding. Instead of connecting APS and Chartered School funding to the state's special education allocation, the bill ties funding to the

average increase in special education and basic education in the last year where both received an increase. In this case, we need to look at 2008-09.

In 2008-09, the basic education subsidy increased 5.55 percent and special education increased 1.66 percent. The formula in SB 982 takes the average, which is 3.6 percent, times the multiplier, which is 125 percent, to the APS and Chartered Schools allocations in the immediately preceding year, resulting in an approximate \$6 million increase in 2010-2011. This more than doubles the increase provided in the current year and goes far beyond what APSs historically receive.

The Department does not support the current language in SB 982, as it provides an increase that is significantly greater than what they have historically supported and received during a difficult financial time. However, we are open to discussing solutions for addressing the APSs and Chartered Schools concerns. Any increase requires new funds to be identified; therefore, this conversation ultimately needs to take place during budget negotiations.

Looking at special education broadly, Pennsylvania is in better position now because of the investments during the last seven years. We have made a commitment to invest in early childhood education, and we are transforming our system of supports and interventions to focus on the needs of individual students at every level. These investments will continue to pay dividends.

The Department thanks the Senate Education Committee for bringing attention to this issue. I am happy to answer your questions.

Alliance of Approved Private Schools

-Commonwealth of Pennsylvania-

Testimony in Support of Senate Bill 982

Senate Education Committee

Wednesday, April 14, 2010

On behalf of the Alliance of Approved Private Schools (Alliance), we thank the Senate Education Committee for this opportunity to testify in support of Senate Bill 982. The Alliance represents 26 of the Commonwealth's 30 Approved Private Schools (APSs). Our schools were created by a 1961 act of the Pennsylvania legislature. Each of the APSs is licensed by the State Board of Private Academic Schools and approved by the state Secretary of Education to provide appropriate, publicly-funded special education to eligible students who, by the nature, severity, and complexity of their disabilities, cannot be appropriately educated in public school's special education program. APSs provide highly specialized education and related services to Commonwealth's students with severe and complex disabilities.

Consistent with federal education law, Pennsylvania offers a continuum of educational services for children with special needs. This continuum ranges from in-class supports in a public school to special classes within the public school, the Intermediate Unit system and placement with an Approved Private Schools. Approved Private Schools constitute the far end of the educational continuum. The Pennsylvania Department of Education's (PDE) website states, "APSs are an important and necessary part of Pennsylvania's special education delivery system. These schools provide some students with what may be the only appropriate education program available."

APSs serve those children whose behaviors or intense support needs preclude their being served in more inclusive settings. In a sense, every child in an APS has a significant barrier to placement in a more inclusive setting. Some of our schools offer day services only, with the children returning home at the end of the school day. Other schools, in order to meet the

complex and all-encompassing support needs of the children, offer 24/7 residential services as well.

The support needs for children served in our schools are extensive; it follows that the costs associated with placement in our schools are also high. In order to assist school districts in placing children in APSs, PDE, in most cases, will fund approximately 60% of the costs of the placement, with the home school district paying the remaining 40%.

Just over 3500 Pennsylvania children are receiving educational programs through APSs in Pennsylvania, and this group represents approximately 1.3% of the Commonwealth's 270,000+ school-age special education students. Our schools serve children with intellectual disability, serious emotional disability, autism, traumatic brain injury, cerebral palsy, and various other disabilities that challenge their ability to function without significant supports. Certainly, we serve those children who have not been successfully served in less restrictive settings along Pennsylvania's continuum of educational services. Each APS has a cap on the amount of PDE money that can be used to support children, and when that allotment is depleted, local school districts wishing to send additional children can be asked to pay 100% of the costs of supporting and educating those children.

We are referred the children with challenges that overwhelm even the specialized support systems in the public schools and Intermediate Units. And with the growing capacity of the public schools to include more challenging kids, our referrals are becoming increasingly challenging, not easier. It would be inappropriate for us to get easy kids, and we don't.

While APSs are not inexpensive, we are a cost effective alternative to the public schools. Note that on the average, our teachers are paid about 25% less than Special Education teachers in the public schools, and our teachers do not participate in the state pension plan. Similar savings are evident in other professional positions. As a result of this disparity, APSs function as a real world training ground for young teachers who will eventually move to the public school system for the increased compensation level. Although APSs are not inexpensive, we operate less

expensively as private entities than if we were operated directly by PDE.

Placements in APSs and Funding for Eligible Students are Regulated

The placement of eligible students into APSs must be justified by the nature or the intensity of each student's disability or disabilities and the student's individual needs. When a school district and the parent agree that the only source of an appropriate education for a student is in an APS, and the APS accepts the student for enrollment, the recommendation is sent to the PDE's Bureau of Special Education for final approval or disapproval of payment. Chapters 14 and 171 of the state's special education regulations and standards govern how students are placed into APSs.

The APSs and the children they serve are funded based on a formula in Act 70 of 2004. The formula is as follows: the percentage increase in dollars in the state's public school Special Education appropriation multiplied by 125% determines the next year's increase for the APSs. Funding increases are based solely on an increase in the state's special education budget line.

No Funding Increase Being Offered to Students in APSs in FY 2010-2011 & 2011-2012

In 2009-2010, there was no increase in the state's public school special education budget line. Federal stimulus money was used in place of state dollars. Therefore, unless a change is made to Act 70 or some other arrangement is put in place, students with severe and complex disabilities and the APSs that serve them are receiving a **0%** increase in funds for the 2010-2011 fiscal year and the following fiscal year.

The Governor's 2010-2011 budget proposal and Chairman Evans' general appropriations bill (House Bill 2279) recommend a **17%** increase for special education programs in the public schools and a **6.4%** increase in public school general education by using federal stimulus dollars. Pennsylvania's most vulnerable student population stands to suffer if funding remains stagnant. We believe the Commonwealth in no way would want to disadvantage or discriminate against

children with the most critical educational and behavioral needs.

The APSs are experiencing the same escalation of costs that public school special education programs are facing. The difference between our schools and public schools, however, is we do not have access to the number of other funding sources that are available to public schools. APSs are not able to raise taxes to cover costs, nor are we able to bill for our services to PDE approved students. APSs are not even permitted to carry over any state funds remaining at the end of any year into an emergency reserve fund as the public schools are able to do.

The APSs continue the ongoing fight to control the rising costs of providing special education programs and services to our students despite the fact that the degree, complexity, and scope of their disabilities are increasing. This is a major factor that results in the necessity for more highly trained staff, higher ratios of staff to fewer students, and the need for more specialized services, equipment, and technology. The dedicated special education teachers, therapists, and other staff of the APSs are already paid, on average, 25 – 30% less than their counterparts in the public schools.

Without a fair increase in funding by the Commonwealth in fiscal year 2010-11, our schools will be faced with the need to reduce costs and many difficult decisions will be made, including:

- Cutting staff including special education teachers, therapists, administrators, etc.;
- Lowering admissions of eligible students with severe and complex disabilities who are unable to receive an appropriate education in public school special education programs;
- Reducing staff benefits to deal with the continued escalation of costs in health care and other types of insurance;
- Failing to acquire specialized equipment and materials needed for student programs and services;
- Deferring needed building and equipment maintenance; and
- Limiting or eliminating computers and specialized software needed for student learning.

The Alliance supports Senate Bill 982 to remedy the inequity of flat funding for our schools. Senate Bill 982 amends Act 70, so that the budget lines for *Special Education-Approved Private Schools* and *Chartered Schools for the Blind and Deaf* are not flat and therefore under-funded in FY 2010-11 and 2011-2012. For the 2010 budget, this solution would give an increase of approximately \$4.39 million for the Approved Private Schools and \$1.47 million for the Chartered Schools for the Blind and Deaf.

S.B. 982 amends Act 70, so that years in which there is no increase in the state appropriation for public special education another formula is used. In the year following such a flat line in special education, there would be an increase for the APSs and the four Chartered Schools for the Deaf and Blind calculated by applying the 125% multiplier in Act 70 to the average of the increase in the state appropriation for special education and basic education funding in the last fiscal year in which there was an increase in the state appropriation for special and basic education.

For 2010-2011, the proposed amendment would yield a 4.25% increase for *Special Education-Approved Private Schools* and *Chartered Schools for the Blind and Deaf*. This figure is derived by averaging the increases in the 2008-2009 budget for public school special education, which was 1.7%, and for basic education, which was 5.1%, which averages out to 3.4%. When the 125% multiplier is applied, the result is a 4.25% increase.

In conclusion, we ask for your help in obtaining a reasonable funding increase through support of Senate Bill 982, so that Approved Private Schools are not forced to cut back on critical services and programs for the Commonwealth's most vulnerable students.

Overbrook School for the Blind
6333 Malvern Avenue
Philadelphia, PA 19151
(215) 877-0313
www.obs.org
Gerald Kitzhoffer, Director
Founded - 1832

Pennsylvania School for the Deaf
100 West School House Lane
Philadelphia, PA 19144
(215) 951-4700
www.psd.org
Larry S. Taub, Headmaster
Founded - 1820



**The Pennsylvania
Chartered Schools
For Deaf and Blind
Children**

Western Pennsylvania School for Blind Children
201 North Bellefield Avenue
Pittsburgh, PA 15213
(412) 621-0100
www.wpsbc.org
Todd S. Reeves, Executive Director and
Superintendent
Founded - 1887

Western Pennsylvania School for the Deaf
300 E. Swissvale Avenue
Pittsburgh, PA 15218
Donald E. Rhoten, Superintendent
(412) 371-7000
www.wpsd.org
Founded - 1869

TESTIMONY IN SUPPORT OF SENATE BILL 982

SENATE EDUCATION COMMITTEE

WEDNESDAY, APRIL 14, 2010

12:00 NOON

STATE CAPITOL BUILDING, HARRISBURG, PA

DONALD E. RHOTEN, SUPERINTENDENT

WESTERN PENNSYLVANIA SCHOOL FOR THE DEAF

Thank you for the opportunity to testify before your committee today in support of Senate Bill 982, the Erickson--Dinniman bill to amend Act 70 of the 2004 Legislative Session that provides a formula for funding our state chartered schools for the deaf and blind, as well as the approved private schools. On behalf of our schools – Overbrook School for the Blind, Pennsylvania School for the Deaf, the Western Pennsylvania School for the Deaf (which now includes the old Scranton State School for the Deaf), and the Western Pennsylvania School for Blind Children, I am pleased to present our views.

Our schools were created by the state over a century ago to educate children who, because of blindness and/or deafness, could not effectively be taught in the regular public school district classes. Today our schools educate about 800 children from over 200 public school districts across Pennsylvania who, except for their sensory impairments, would be in the public schools. Many of our children, in addition to blindness and deafness, have other disabilities such as autism.

Our schools are totally dependent on state funding, although the state does subsequently recover up to 40% of the funding from the school districts. Our budget increases are determined by the formula found in Act 70 of 2004. The base appropriation of that year is increased in subsequent years by 125% of the increase in the line item for special education for the prior year. There is no increase in the state appropriation for special education in the 2009-2010 budget. Under the current formula in Act 70 this means we will receive no increase in the 2010-11 budget. That is why we ask you to pass Senate Bill 982. This bill will amend Act 70 so that in years following one in which there is no increase in the state line item for special education our schools would receive an increase determined by taking the average of the increase in special education and basic education funding for the last year in which both received an increase and multiply that by the 125% figure in Act 70. For the 2010-11 budget this would give an increase of approximately \$1.472 million for our schools and \$4.368 million for the approved private schools.

We acknowledge that we are asking for an increase in a time of significant financial distress for the State. But we would like to offer several points that justify our request.

1. While the State line item for special education is flat lined for the 2009-10 budget and also in House Bill 2792 for 2010-11, in fact special education is receiving substantial increases. For 2009-10 special education is receiving a 40.06% increase (\$411,349,000) from federal stimulus funds. In the proposed budget for 2010-11 special education will receive a 17% increase (\$172,983,000). These increases are not applicable to the Act 70 formula and so our schools are left out.
2. Basic education funding is also proposed for another significant increase of \$354 million, or 6%.
3. With substantial increases going to both special and basic education, how can our children be treated differently than the children in the regular schools? Our children would be in their regular school district classes except for their sensory impairments. It would be one thing if there were no increases for school districts, and special education, but that is not the situation.
4. Our schools have the same rising costs for program and administrative operations, salaries and benefits as do the public schools. We also have to pay for an additional \$6 million in PSERS payments in the next five years. Attached is a sheet showing the salary and PSERS obligation for our four schools for the 2010-11 fiscal year. Continued flat funding for our schools will result in program cutbacks, loss of qualified staff, and additional facility and support cutbacks that will place our schools behind their peers. Our request to rectify this inequity is not based on a desire to get ahead, but on a realistic expectation of our students not falling behind those in regular basic and special education.

There are several not-so-subtle differences between our Chartered Schools and a typical school district (from a funding perspective), including the following:

- Our Chartered Schools have no taxing authority and can not turn to local residents to support the schools.
- The Commonwealth subsidizes the “employer” contribution to the PSERS plan based on an income aid ratio. Because our Chartered Schools have no geographic area over which demographics could be used to calculate an income aid ratio, these schools have always contributed at the maximum rate. As such, while the average school district pays 46% of the employer rate, the Chartered Schools pay 50%.
- Our Chartered Schools are not eligible to participate in many funding streams available to school districts. As stated earlier, our Chartered Schools did not receive any funding under the recent American Recovery and Reinvestment Act funding.
- While a private school in Pennsylvania may charge parents for the education of their children, our Chartered Schools are prohibited by law from charging parents. (School Code of 1949 at 24 PS 13-1376.1 (d))

As shown above our Chartered Schools literally have no place else to turn, other than the Commonwealth. We therefore urge your approval of Senate Bill 982.

Thank you.

#

Attachment

ATTACHMENT

		<u>Net Increase</u>	<u>School Totals</u>
Overbrook School for the Blind			
Payroll estimate- 2009-2010	12,200		
Cost of living increase-All Urban CPI-Ending January 2010	2.6%	317	
PSERS estimate for 2009-2010	292		
Employer rate for 2009-2010-Chartered school share (50%)	2.39%		
Employer rate for 2010-2011-Chartered school share (50%)	4.11%	<u>210</u>	527
 			
Pennsylvania School for the Deaf			
Payroll estimate- 2009-2010	7,831		
Cost of living increase-All Urban CPI-Ending January 2010	2.6%	204	
PSERS estimate for 2009-2010	187		
Employer rate for 2009-2010-Chartered school share (50%)	2.39%		
Employer rate for 2010-2011-Chartered school share (50%)	4.11%	<u>135</u>	339
 			
Western PA School for Blind Children			
Payroll estimate- 2009-2010	12,972		
Cost of living increase-All Urban CPI-Ending January 2010	2.6%	337	
PSERS estimate for 2009-2010	310		
Employer rate for 2009-2010-Chartered school share (50%)	2.39%		
Employer rate for 2010-2011-Chartered school share (50%)	4.11%	<u>223</u>	560
 			
Western PA School for the Deaf			
Payroll estimate- 2009-2010	12,322		
Cost of living increase-All Urban CPI-Ending January 2010	2.6%	320	
PSERS estimate for 2009-2010	295		
Employer rate for 2009-2010-Chartered school share (50%)	2.39%		
Employer rate for 2010-2011-Chartered school share (50%)	4.11%	<u>212</u>	<u>532</u>
Total all schools			<u><u>1,958</u></u>

Footnote 1 This schedule shows cost increases beyond our control and does not include other costs, such as health care, utilities, food costs, etc.

Footnote 2 None of the above schools have taxing authority.

Footnote 3 None of the above schools received any benefit from ARRA, as did Special Education.

Footnote 4 Children attending the above schools face some of the most severe disabilities.