

TESTIMONY BEFORE THE PA HOUSE EDUCATION COMMITTEE

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Urban Pathways Charter Schools

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Good morning members of House Education Committee. Thank you for allowing me the opportunity to testify about charter school issues.

I am a native of Youngstown, OH, have lived and worked in Washington, D.C. for 20 years, and have loved my experience in Pittsburgh for nine years now as the Chief Executive Officer of Northside Urban Pathways Charter School. I come before you with over 35 years of experience in the field of education. I have experience as a K-12 teacher, principal and superintendent in the traditional public school setting. My experience spans private, Catholic, traditional public and now public charter schools. I hold a PA Certificate of Eligibility for Superintendent. I feel that I speak with good authority on these issues.

Urban Pathways Charter School is located in downtown Pittsburgh and serves grades 6-12 with a population that is 98% minority and 88% free and reduced lunch. The research will show you that most charter schools nationally mirror this population. 100% of our graduation classes of both 2010 and 2011 have been accepted to colleges and universities throughout our country. We are very proud of this accomplishment.

Despite the growth in the charter school movement, myths still surround us. Charter schools are public schools in every sense of the word. We cannot “cherry pick” our population; the law clearly states that “all resident children in this Commonwealth qualify for admission to a charter school.... If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected by [lottery].” Charter school board members and administrators are subject to the State Ethics Act. Board meetings are to be conducted in compliance with the state’s Sunshine Act. Work upon the school’s facility is subject to both public bidding and prevailing wage laws. Charter schools follow practically every regulation of traditional public schools when it comes to educating children.

These are facts.

This is not to suggest that there are not problems with the current Charter School Law. There certainly are. Let me share a simple example with you to paint a picture of a problem inherent in the law as currently written.

Let’s pretend for a moment that I own a traditional pizza shop on Penn Avenue, and you decide you would like to own a less traditional pizza shop on Penn Avenue. Your pizza shop would offer different types of pizza than my shop. It would not matter what support you have or what demand there was for your pizza shop. I still get the final say on whether or not you can exist next to me. If I choose that you cannot exist, you may appeal that decision using up your limited financial resources. Also, I am deciding that you can only receive a little more than half of what I receive monetarily for a slice of pizza. If you eventually get your pizza shop, you will find out that your customers don’t have to pay you, and, there is no consequence for them not paying you. You will eventually get paid by going to your state department and waiting for your money. In

addition, I get to evaluate your pizza shop. It really doesn't matter that you have more satisfied customers than me. I am still going to evaluate your pizza shop as poor. There is no appeal for that rating, and there is nothing that you can do about that rating. In addition, I can vote to close your pizza shop and prevent you from expanding your current store or opening another one no matter how successful you are just because I want to, making you go through a lengthy and expensive appeal process.

This analogy, hopefully, makes the point clear as to why charter schools need alternative authorizers such as independent commissions, colleges and universities. These entities would not serve as competition; rather, they would be objective parties in this process.

Members of the House Education Committee, I stand here and ask you: Would you want to run a pizza shop under these conditions? These conditions are not exaggerated. All of these things have happened to Urban Pathways.

- In 2006, Pittsburgh Public Schools (PPS) voted to close our charter school for no reason. PPS recanted almost immediately upon our filing of an appeal.
- Currently, we are operating on 62% of the per pupil expenditure of PPS.
- The amount of revenue that we get from every district keeps going down since the PDE-363, from which the per pupil allocation is derived is not monitored by PDE.
- In 2009, we applied for an amendment to allow for grade expansion of our current school; the request was denied despite our charter school's track record of excellence. Charter School Law, as currently written, does not explicitly provide the State Charter School Appeal Board or the local courts of common pleas with the power to hear the appeal of a district's denial of a charter school's request for an amendment. Therefore, we are still engaged in a lengthy and expensive appeal process concerning our amendment request. I encourage you to support reforms to the Charter School Law that clearly include a charter school's right to appeal a denial of amendment request to the State Charter School Appeal Board. Currently, House Bill 1348 and Senate Bill 904 include such language.
- We cannot verify the enrollment numbers of our students' districts of residence, which is how we know that we are being paid correctly. The media reports that their populations keep decreasing. The less students, the more the per pupil expenditure should be. That is not happening. The Department of Education can't verify the numbers either, so PDE may be paying for students who do not exist.
- In our most recent evaluation by PPS, they state an improvement needed in, and I quote, "a clearer guidance department structure that begins college planning in grade six." This is despite our last two graduating classes having a 100% college acceptance rate.

OTHER PROBLEMS WITH EXISTING PDE 363 FORM

It is important to note that the Charter School Law allows only seven deductions by school districts when calculating the per pupil payments for regular education students: (1) nonpublic school programs, (2) adult education programs, (3) community/junior college programs, (4) student transportation services, (5) special education, (6) facilities acquisition, construction and improvement, and (7) other financing uses, including debt service and fund transfers.

The statute does not allow any deductions when calculating special education payments for special education students.

However, the current PDE 363 form allows far more than the seven deductions allowed by statute. It allows deductions for: “Regular Education (federal only),” “Prekindergarten (federal only),” “Prekindergarten (state PreK counts only),” “Vocational Education (federal only),” “Other Instructional Programs (federal only),” “Pupil Personnel (federal only),” “Instructional Staff (federal only),” “Administration (federal only),” “Pupil Health (federal only),” “Business (federal only),” “Operation and Maintenance of Plain Services (federal only),” “Central (federal only),” “Other Support (federal only),” and “Operation of Noninstructional (federal only).”

These 14 additional deductions are not allowed by the Charter School Law.

Furthermore, the current PDE 363 allows two deductions from the funding formula for special education services: “Special Education (federal only),” and “Early Intervention (state only).” Again, the Charter School Law does not allow any deductions from the special education funding formula.

Presumably the reference to “federal only” in most of the unauthorized exemptions refers to money that is received from the federal government. Therefore, the argument for excluding these payments is presumably that the charter schools themselves can apply for the same grants, and to include them in the per pupil calculation would amount to double payments for the charter schools.

There are three problems with this argument. First, the statute does not permit these deductions. Therefore, it is illegal to allow them.

Second, the statute permits the school district to take deductions for things that do not make sense, such as facilities acquisition and other financing.

Third, as long as charter schools are not considered “districts,” they are not eligible for most of these grants.

These unauthorized deductions are significant. Last year, Pittsburgh Public Schools took nearly a \$16 million deduction for “federal only” regular education. The other unauthorized deductions on the PDE form allow PPS to take another \$62 million in deductions. In very rough numbers, if these illegal deductions were not allowed, the district would be paying \$13,993 per regular education student instead of the \$12,369 that the district did pay. Similarly, it would be paying \$31,999 per special education student instead of the \$26,965 it currently pays.

PROBLEMS WITH EXISTING STATUTE

As I previously stated, the existing statute allows for districts to deduct the costs of facilities acquisition, construction and improvement, and other financing uses, including debt service and fund transfers. District students have facilities available to them that are paid for with tax-payer dollars. Charter school parents pay just as many taxes as parents in traditional districts. Yet the debt service that pays for these facilities are held back from charter schools and their students as though they are not required for the education of all public school students. No portion of these dollars is made available to charter schools with which to procure suitable facilities. Charter schools are expected to procure facilities with their other operating funds. It is important to note that districts include charter school students in their calculation of per capita expenses, yet they do not provide the appropriate portion of their debt service for facilities acquisition by charter schools. These deductions are inequitable for the mere fact that charter schools need both facilities and financing to exist. These deductions taken by districts are very large. Last year, Pittsburgh Public Schools deducted nearly \$65 million for "other financing uses." There is no justification for such miscellaneous deductions. Our auditors would seriously question even a \$10,000 miscellaneous line item. We just don't do it.

The statute also allows for deductions for student transportation services. While districts do provide some student transportation services to charter schools, there are some such services that they do not provide. This includes transportation for students who are enrolled in cyber charter schools and who are not actually transported. It also includes the transportation of special education students commensurate with those students' IEPs. Such expenses, which can be exorbitant, are deducted by the district despite being paid for entirely by the charter school.

Finally, there is no penalty under the law for districts who fail to calculate the 363's correctly thus providing incentive for the districts to overstate their deductions and to understate their other expenditures. Even if the charter schools manage to uncover the problem, the only thing that results is that the district has to pay what was really owed in the first place. Our charter school encountered this problem first hand when in 2007, we discovered that the 363 formula by which we get paid was flawed; the result: PPS owed millions of dollars collectively to the local charter schools.

More recently, in 2009, PPS spent \$43,850 on "other support services." In 2010, that figure increased by almost \$770,000 with no explanation. I would think that someone would be interested in the back up data on this line item.

We all need to be treated fairly and with dignity. My major concerns are equitable funding and fair treatment of our schools and our urban poor children.

- We serve the same population of students; therefore, we should receive the same amount of funding as these districts, especially in large urban areas like Pittsburgh. To do otherwise is discriminatory.
- In the past, and currently, PDE chose not to consider charter schools as their own districts, thereby, preventing them from being eligible for federal, state and local grants that are meant just for DISTRICTS. The Accountability Block Grant program is such an example. We are our own districts. It is discriminatory to deny us these opportunities.

- Another example of this is not treating charter schools as DISTRICTS for AYP purposes. For example, in a district, if any faction of their schools make AYP (elementary, middle or high school), the whole district makes AYP. This is not so for charter schools. Our school is a prime example. This year, as a school, we made every AYP target except in middle school math; however, our 11th grade math made AYP. If we were considered to be a “district,” our school would have made AYP outright. We are appealing this decision because it is discriminatory. Also, why is it, because we have 40 students in the 11th grade who made AYP, but because there may only be 38 in a particular subgroup (economically disadvantaged, for example) that also made AYP, that this fact should weaken any argument? In small schools such as ours, does not anyone understand that pride prevents many parents from filling out these free and reduced lunch forms? Does not anyone understand that some of our parents can’t read the forms to fill them out and do not want to ask for help?
- Another example: We were finally approved for a second charter school. Unlike a district, I am prevented from serving as a “Superintendent” over our two schools. Instead, I am donating my time as CEO to ensure compliance with the current law. Senate Bill 904 would clarify the law to allow for appropriate oversight of both schools just as a superintendent does in his/her district.
- A final example: As a CEO/Superintendent, I am not permitted to use my own personal time to consult for pay to help other charter schools. Traditional superintendents are allowed to do this. I can think of no other profession where people are told what they can and cannot do on their own personal time. This is a discriminatory practice.
- There is no objective local fair authorizer and process for appeals.
- We not only give the PSSA test; we test all of our students at UPCS with nationally normed tests three times a year, every year, to note progress. In every grade, there was improvement in both reading and math this year.
- I have to put 6th grade students on a city bus to come to school because districts will not transport them on a school bus. PPS’s own sixth grade students get on and off that yellow school bus not even a block away from our school. That is discriminatory. Would you put your own 11 year old on a city bus and send them into town?
- Our teachers do not get \$20/30/40,000 jumps in pay because they have been with us for over ten years. Our teachers have been on Pay for Performance for several years now. We have maintained a 99% staff retention rate over the past few years. Our highest teacher pay is in the mid fifties.
- We are audited yearly and have had no audit findings.
- Despite perfect audits, we cannot obtain a loan to help to defray renovation costs, because we have no excess revenues. Our cash flow is that close...what comes in goes out. We don’t have the luxury of having “rainy day” funds. Districts are allowed to have “rainy day” funds. Any legislation that would prevent charter schools from maintaining a surplus to prepare for yet to be determined expenses is discriminatory.

There are several bills currently being considered that would substantially change the landscape for charter schools. For example, S.B. 904 would incorporate a number of long-overdue, not pro-charter but rather common sense, reforms to facilitate the creation and continued operation of Pennsylvania's charter schools, yet also provide important accountability measures that all of the state's charter schools should support.

S.B. 904 would create a statewide commission, independent from the Pennsylvania Department of Education, to be charged with oversight of charter and cyber charter school functions, such as the ability to serve as a depository of best practices. The commission would also serve as an independent authorizer of charter schools. The legislation would also allow an intermediate unit or local school board to create or to convert an existing public school into a charter school. Moreover, the bill would modify the application and appeals procedures for the state's charter schools by streamlining administrative processes by which these schools are formed, evaluated, and renewed. House Bill 1348, sponsored by Representatives Killion, Payton, Jr. and Marshall has introduced similar though not identical legislation that includes many positive reforms. However, these reforms need to be transparent, especially those involving conversions of district schools to charter schools. Charter schools must have independent boards.

On the other hand, House Bill 1657, sponsored by Representative Roebuck, is wrought with punitive measures that, if enacted, would severely impact a charter school's ability to educate its students. These measures include, but are in NO WAY limited to:

- Prohibiting a charter school from contracting for a term that extends beyond the charter school's existing charter agreement (NOTE: this would be a death blow to charter schools given that it would make financing and leasing impossible for most charter schools)
- Prohibiting a trustee of a charter school from serving as a trustee or even an employee at any other charter school (or cyber charter school)
- Prohibiting any employee of a charter school, including lower level employees, from serving on the local school board that granted or renewed the charter school's charter.
- Preventing charter schools from contracting with educators who are not employees of the charter school to serve as teaching staff in specialized subjects. Even where such approval is given, such arrangements could not constitute more than 5% of the teaching staff of the charter school.
- Requiring a charter applicant to state in its application the maximum number of students it will enroll during each year of its charter
- Creation of an Office of Charter and Cyber Charter Schools that would have many of the same functions that would remain with the local school district authorizer and the state auditor general
- Requiring charter schools to pay the newly created Office of Charter and Cyber Charter Schools to provide mandatory training for their board members and administrators (NOTE: charter schools regularly engage experts in the field, including their own solicitors, to provide such training) In addition, our teachers obtain 240 hours of staff development each year.

This bill is riddled with indignities. HB 1657 is NOT a stairway to heaven!"

Committee members, if you really do believe in choice and equity, if you really do care about our minority poor children, then don't be afraid to make changes and to make them NOW. Get the facts...not the fiction...there are no GREY areas...the answers are clear. Just ask charter school students where they would go if they could not attend their charter school. The answers are consistent: "I don't know. I do know, though, that I would not go back to my home school under any conditions." So, let's do the math. If for example, your district has 10,000 kids, and 2,000 of them go to charter schools, that leaves a school with 8,000 kids. If there weren't charter schools, and if these students would be dropping out or leaving their home schools anyway, then, $8,000 - 0$ is still 8,000. That is the bottom line. So, why are we wasting precious time when the math doesn't lie?

I am asking for EQUITY, not more, not less, not equal...just EQUITY. I know that you are aware of the word FAPE (Free and Appropriate Education), so if you remember nothing else, please remember this little acronym: FAPE 2...equity in FUNDING...equity in determining the status of AYP...equity in PROCESS....and equity in EVALUATION/AUTHORIZATION.

Again, I thank all of you for your attention to these most important matters that affect the students in our great state of Pennsylvania. I am happy to answer any questions.

EXHIBIT A: PPS 363 Comparison from 2008 – 2011

PPS - PDE 363 Comparison

<u>Description</u>	<u>2008-2009</u>	<u>2009-2010</u>	<u>2010-2011</u>
Total Expenditures	\$599,841,858	\$600,163,283	\$602,268,530
deductions **	\$246,158,803	\$240,634,005	\$247,510,440
Selected Expenditures	\$353,683,055	\$359,529,278	\$354,758,090
estimated membership	28,586	29,009	28,681
Non Special Funding	\$12,373	\$12,394	\$12,369
** deductions			
Reg Programs (fed)	\$8,866,509	\$14,776,075	\$15,864,123
Sp Ed (fed)	\$83,069,166	\$81,821,488	\$82,631,022
Vocational Training	\$113,447	\$192,489	\$456,879
Other Programs	\$6,107,921	\$1,218,675	\$1,968,829
Pre K	\$17,237,609	\$18,605,148	\$20,557,746
Pupil Personnel	\$2,133,827	\$1,596,173	\$2,119,005
Instructional Staff	\$17,745,381	\$16,447,394	\$17,635,626
Admin	\$2,627,440	\$1,516,362	\$1,414,361
Public Health	\$142,440	\$95,506	\$97,914
Business	\$144,943	\$129,626	\$100,228
Operations & Maint of plant	\$17,475	\$16,777	\$2,004
Student Transportation	\$32,188,322	\$32,336,543	\$31,425,465
Central	\$1,435,680	\$2,117,977	\$2,025,607
Other Support Svs	\$573,934	\$43,850	\$811,825
Noninstructional Services	\$436,679	\$572,687	\$507,814
Construction, Acquisition	\$7,296,990	\$4,836,694	\$4,932,955
Other Financing	\$65,303,538	\$62,119,862	\$64,959,038
Other Services	\$717,500	\$2,190,679	\$0
Total Deductions	\$246,158,801	\$240,634,005	\$247,510,441