

January 17, 2020

The Honorable Curt Sonney  
Pennsylvania House of Representatives  
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Richard W. Askey, *President*  
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Dear Chairman Sonney:

Thank you for the invitation to present testimony before the House Education Committee regarding HB 1897. As of today, PSEA does not yet have a position on your legislation. All bills go through a democratic and member-driven position-setting process that includes multiple reviews by elected members of the PSEA membership from around the state. Like many pieces of charter reform legislation, your bill has sparked interest, questions and thoughtful consideration. At this time, we're happy to share some initial feedback on specific provisions in the bill, rather than the bill as a whole, as you and your colleagues on the House Education Committee determine the best way forward.

### **PROTECTION FOR CURRENT CYBER CHARTER EMPLOYEES**

While the goal of HB 1897 is to provide access to high-quality cyber education programs in a way that is accountable and transparent to local communities, we should acknowledge that this transition may result in the closure of existing public schools. PSEA believes it is imperative we support the educators who taught in those schools and create a pipeline to district based cyber education programs. Having the state close public schools or schools operated by the state is never a pleasant process, nor one that should be done without significant debate by policymakers and stakeholders. That said, we should not ignore the fact that there is precedent for the state closure of schools. For example, the state closed the high school in the Duquesne School District in 2007. It closed the Scotland School for Veterans' Children and the Scranton School for the Deaf in 2009. On the local level, Wilksburg Area School District voluntarily closed one of its high schools in 2016 and students were transferred to Pittsburgh Public Schools. The one thing all of these situations have in common is that employees were provided some form of transfer of entity protection. Such individuals were given preference for positions for new or open positions in the future within the entities receiving the students.

Historically, transfer of entity protection dates back to the early 1970s in the Public School Code. Section 913-A(h) relating to intermediate units requires that IU employees hired prior to July 1, 1971 be selected from those employed previously by a school district. Instructional staff followed the students with the transfer of special education services. At that time, the state made a change in how special education was funded and staffing changes occurred in school districts and IUs. House Bill 1897 proposes to create the same type of situation – only related to cyber education this time.

Employees in cyber charter schools should be treated like all public employees in these scenarios. We suggest that cyber charter employees who are furloughed receive transfer of entity protection with respect to all school district or IU-based cyber programs within the catchment area of their resident IU. In

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addition, these employees should receive transfer of entity protection with respect to any third-party vendors that contract with school districts to provide cyber programming.

In addition, there are instructional employees in cyber charter schools that don't have certification and wouldn't be able to work in a school district or IU-based cyber program under the proposal. PSEA has a long-standing position of supporting efforts to require certification of 100 percent of all staff in these institutions. We appreciate that HB 1897 includes this important policy adjustment for all cyber education programs. We would urge the commonwealth to provide these individuals with a pathway to maintain their employment as a cyber educator. Non-certificated instructional staff formerly employed by cyber charter schools could be granted emergency certification for a period not to exceed two years to work for a cyber program operated by a third-party vendor. Upon the expiration of the two-years, individuals should have completed certification requirements in order to continue and/or achieve employment in a public school entity.

### **STUDENT-TO-TEACHER RATIOS**

PSEA was encouraged by your recognition of the importance of student-to-teacher ratios, or class sizes, in core subject areas. We hear consistently from our cyber educator members that this is a concern for them. Courses in cyber schools can either be categorized as live instruction or asynchronous, which means these are the courses where students learn at their own pace. Like all instructional staff, they need class sizes or caseloads that are manageable and enable them to give individualized attention to students. Asynchronous courses can have extremely high ratios. Our members also tell us that these are the courses with the most significant absentee issues and they are often the courses where administrators push families and students to choose because they are the least costly.

We encourage you to maintain this provision in the legislation, expand it to apply to all public schools and perhaps strive to do better for elementary grades. Research consistently demonstrates that class size and individualized attention are important to current and long-term student achievement, but that the impact is particularly important for the younger grades. Your legislation could take Pennsylvania from no class size ceiling to an actual ratio or class-size standard and it could help many students and families who have seen their class sizes rise above 25 in elementary grades in recent years.

### **THIRD-PARTY VENDORS AND EMPLOYEE PROVISIONS**

The bill provides current cyber charter schools with the opportunity to dissolve into nonprofit corporations and become third party vendors. Therefore, they would be able to contract with and provide cyber education programs to school districts. The bill also allows school districts and/or IUs to offer their own in-house cyber programs. In our estimation, these provisions require clarification to ensure a seamless transition:

1. Organizations that exercise the option to dissolve into third party vendors should be required to retain the current cyber charter employees necessary to fulfill requirements of any contracts with school districts. In addition, we recommend the bill affirm the continued existence of a local bargaining unit as these transitions occur. Both of these recommendations help provide some stability for employees.
2. Contracts should stipulate performance evaluation measures and associated timelines related to the vendor and educational services provided.

3. Local collective bargaining contracts should be required to be reopened and renegotiated for any school district or IU that seeks to place new instructional responsibilities on district or IU employees currently not involved in cyber education and that would enable the public school entities to meet the mandates under the bill.

### **CYBER EDUCATION PROGRAMS**

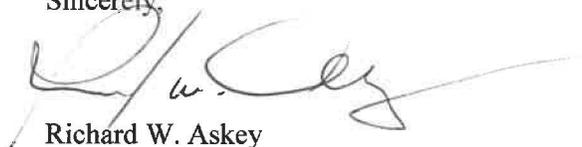
PSEA would like to request additional clarity regarding the rationale for the provision that requires three cyber programs be offered per school district. We are confident that school boards could manage this requirement, but could there be an opportunity to reduce the offering to two? PSEA will seek additional conversation with you to better understand this provision.

Finally, we would like the opportunity to further discuss the requirement that school districts create their own, separate cyber schools if certain enrollment thresholds are reached. We don't think it's in Pennsylvania's interest to create new schools – again – if we're seeking to restructure how cyber education programs are provided. This bill should maintain the focus on programs, not new schools. That said, we want to understand your thinking around this provision before making any official recommendations.

In closing, we would note that throughout almost 15 years of conversations about charter school reform, PSEA has always tried to work with all parties and the various perspectives to find consensus or compromise. We approached this hearing no differently than we have approached other charter school reform proposals. That said, we want to emphasize again that PSEA does not yet have a position and this letter represents our initial feedback. More feedback might be forthcoming following the next PSEA Board of Directors meeting.

Thank you for your consideration of our comments. We have some other technical suggestions, which we're happy to share separately with House Education Committee staff.

Sincerely,



Richard W. Askey  
PSEA President