



PHILADELPHIA
1315 Walnut Street, Suite 400
Philadelphia, PA 19107-4717
T 215-238-6970
F 215-772-3125

PITTSBURGH
429 Fourth Ave, Suite 702
Pittsburgh, PA 15219
T 412-258-2120
F 412-467-8940

To: Senate Education Committee
From: Education Law Center¹
Re: Achievement School District legislation
Date: 5/13/2015

It is puzzling why the state would want to “take over” schools that it has *already taken over*. That’s what would largely happen with the passage of Senate Bill 6, a bill proposing to create a new state-operated and state-wide “Achievement School District.” SB 6 would hold “accountable” the bottom 5% of schools, by giving them the dubious honor of becoming “intervention schools.” By our calculation, of the 146 schools that currently fit that classification, 90 are schools that are *already under state operation* in some form. Eighty-two are from school districts in Philadelphia, York City, Chester-Upland, Harrisburg, or Duquesne City, which all have either a state appointed chief recovery officer, a state appointed receiver, or have a governing board with majority state-appointed officials.² Eight are cyber charter schools which are also already approved by the state and [produce mediocre results](#). If the sponsors of SB 6 believe that existing state entities are doing a poor job with these schools, it’s unclear why they think a different state-operated entity would do any better.

Of the 56 schools remaining on the intervention list, 31 are brick and mortar charter schools. Under SB 6, the main solution for improving intervention schools is to turn them into charter schools. Thus, the bill will permit the state to take over charter schools, so that it can turn those charters schools into other charter schools.

What’s left are 25 schools from 17 different school districts that geographically span the entire state. The legislation is unclear about where this new “Achievement School District” will be located, but the families in most of these schools can be sure it will be nowhere nearby their actual communities, revoking any semblance of local control.

In addition to charter conversions, other accountability measures in SB 6 include: closing schools, replacing teachers and principals, opening new charter schools, or hiring education management organizations to run schools or provide services. These are essentially the same reforms called for under the federal No Child Left Behind Act and school districts have already long had the legal authority to institute these reforms. Many districts, particularly Philadelphia, are already aggressively pursuing these reforms. For example, in just the last four years the School District of Philadelphia has closed 30 schools, converted 21 other schools to charter operation, and instituted reforms that replaced the principal and majority of staff at 12 more schools. In barely 10 years, the Philadelphia charter sector has grown by roughly 47,000 students. It’s tough to describe this as a slow pace of reform.

¹ The Education Law Center is a non-profit legal advocacy organization dedicated to ensuring access to high quality public education to all children, particularly students living in poverty, students with disabilities, students learning English, students of color, and students experiencing homelessness or living in foster care.

² Note, a few of these intervention schools would be exempt from being transferred to the ASD, but not from other provisions of the law. One obvious improvement to the bill would be to exempt from ASD jurisdiction *all* intervention schools located in districts already under any form of state operation.

There are examples of these reforms being successful. There are other examples of these reforms failing. When not implemented strategically, these reforms, particularly the expansion of traditional charter schools, can add significant waste and inefficiency to the public school system. School districts are left with stranded costs from funding two separate school systems and forced to waste many years and millions of dollars to close even poorly-operated charters, all while those schools continue to siphon needed resources from students in other schools.³

Another problem with SB 6 is its reliance on the state's existing metric, the School Performance Profile ("SPP") to identify "bad" schools. According to a March 15, 2015 report by Research for Action, the SPP has "[substantial flaws](#)." An accurate school metric should hold school staff accountable for "the portion of student performance under the school's control." In contrast, RFA concludes that, rather than measure *school* quality, the SPP "could be interpreted as a complex profile of student poverty." The conclusion that "SPP scores are more accurate indicators of the percentage of economically disadvantaged students in a school than of the effectiveness of a school" was [also reached](#) by the Center for Evaluation and Educational Policy Analysis out of Penn State University. Both research organizations suggest that the negative correlation between performance and poverty rates would be even stronger if other student risk factors were also taken into account, such as depth of poverty and the number of students with disabilities or with limited English proficiency.

Nonetheless, it is clear that students in the 146 schools identified by SB 6 desperately need help. Collectively, 87% of students in these schools are economically disadvantaged (state average is 42%), 19% receive special education (state average is 15%), 6.5% are English language learners (state average is 2.3%), and 82% are African-American or Hispanic (state average is 25%).

Meanwhile, these schools are by-in-large located in inequitably and inadequately funded school districts. Among all fifty states, Pennsylvania's system for funding public education is, by far, [the most inequitable](#). Schools that serve the poorest students (the same schools that the state's metric labels as "poor performing") also receive the fewest resources, on average 33% fewer than the wealthiest districts. It's even worse in the 146 intervention schools, which on average are receiving over \$3,800 per pupil *less than what they needed*, as determined by the state's own adequacy target calculations.⁴ These gaps have grown much larger since.

This is not to suggest that none of the 146 schools would benefit from reforms at the school level or that money would solve everything. But rather than give school districts any new tools, SB 6 would largely punish communities for being underfunded and for serving high concentrations of vulnerable students. As attorneys who represent these students, we routinely see how this kind of "accountability" creates perverse incentives to deny students' rights and push out the students perceived as the most difficult to serve, all in the effort to be perceived as "high performing."

³ SB 6 gives the ASD the authority to revoke charter schools that are intervention schools without appeal to the State Charter Appeals Board. There is no reason not to provide this same "tool" to school districts that have authorized intervention schools.

⁴ This data, from the 2010-2011 spreadsheet for Basic Ed Funding, is the most recent year in which the state has calculated an adequacy target. These gaps have grown dramatically wider in the past four years. (Available at <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=509059&mode=2>).

If the sponsors of SB 6 are serious about improving outcomes for students in these schools, they should pass legislation that would ensure all of these schools have adequate resources to provide, at minimum:

- high-quality inclusive pre-kindergarten;
- reduced class sizes and additional tutoring / remediation services;
- highly-qualified teachers in every classroom;
- experienced and dedicated school leaders;
- well-maintained buildings with modern technology, classrooms, theaters, art rooms, libraries, gyms, laboratories, playgrounds, and athletic facilities;
- a robust challenging curriculum that goes beyond the core subjects to include art, music, theater, dance, physical education, health, home economics, computer science, and more;
- Advanced Placement and International Baccalaureate course offerings
- access to career and technical education;
- a wide variety of extra-curricular offerings;
- sufficient school librarians, guidance counselors, school nurses, para-professionals, school psychologists, social workers, and other support staff;
- school-based behavioral health services and a full continuum of special education services to ensure that eligible students receive an individualized education program that guarantees a free and appropriate public education in the least restrictive environment;
- scheduled time for collaborative teacher planning;
- fresh and nutritious school lunch program;
- recess and other time for unstructured learning from play;
- on-going professional development in academic pedagogy as well as in School-Wide Positive Behavior Supports, trauma informed education, and restorative practices;
- ESOL instruction as well as interpretation and translation services to students and families that are learning English; and
- support services that ensure school stability for students experiencing homelessness and foster care placement.

SB 6 ensures none of the above and provides little by way of novel interventions or tools. Students do not need legislation that will create a state bureaucracy to duplicate what school districts are already doing. Students need legislation that will hold lawmakers accountable to the oath they took to uphold our state constitution, including the mandate to “*provide for the maintenance and support* of a thorough and efficient system of public education to serve the needs of the Commonwealth.”

Adults must be held accountable for the quality of public education provided to our most needy children. The problem with SB 6 is that it targets the wrong adults.

David Lapp
Staff Attorney
Education Law Center
dlapp@elc-pa.org