



HB 530, PN 569 and SB 856, PN 968
Recommendations on Charter School Legislation
June 19, 2015

House Bill 530 and Senate Bill 856 would each make major revisions to the Pennsylvania Charter School Law. A table below highlights the main amendments that are in HB 530 and/or SB 856 and provides brief analysis through the lens of ELC's [Principles for Charter School Reform](#). These principles reflect the belief that a responsible charter school law must empower local governing bodies to strategically control charter growth as a tool to *increase options* and *improve* our system of public education for all communities. The charter school law should not force blind expansion on already burdened systems and compel the loss of neighborhood schools options.

Both bills contain some positive elements. Unfortunately, the legislation would also:

- Double the length of time before many charter schools, including cyber charters, undergo a thorough review.
- Revoke the power of school districts to negotiate charter school enrollment caps.
- Permit charter schools to unilaterally amend their own charters.
- Stack the Charter Appeals Board against school districts.
- Skim charter tuition off the top before school districts receive state revenues.
- Permit potentially unaccountable multiple charter networks to span across the entire state.

These and other provisions would collectively reduce accountability and expand even poorly-operated charter schools at significant cost to school districts that are already experiencing fiscal crisis and ultimately reduce opportunities for thousands of students. On balance both bills would do more harm than good to public education in Pennsylvania and *should not be passed without major revision*.

Below are charter school reforms that are sorely needed and should be included in any amendments to the PA Charter School Law. *None of these reforms are included in either bill:*

- Amendments should permit school districts, especially districts declared to be in “fiscal distress” to consider the financial capacity of the system as a factor in evaluating new charter applications. Language should be added to a new subsection, 17-1717-A(e)(2)(v), that allows districts to consider “The extent to which state and local revenues are adequate to support the addition of the charter school into the local public school system.” By limiting the ability of school districts to control their costs and plan for the educational needs of their students, the charter law has created an adversarial relationship between districts and charters. School districts are the entities charged with creating a “thorough and efficient *system* of public education.” Without the authority to implement strategic charter expansion, many districts are unable to ensure this constitutional mandate.
- In reviewing a school district’s decision to deny or revoke a charter, the law should require the Charter Appeals Board and the courts to be more deferential to the decisions of local school boards.

- Section 17-1723-A(d) should be amended to explicitly grant local school boards the authority to implement enrollment caps on charter schools that are not equitably serving at risk students and achieving superior results.
- Section 17-1723-A(d) should be amended to ensure that each charter school reserves space for the enrollment of an equitable number of students in their communities who are experiencing homelessness, living in foster care, and returning from juvenile justice placement. Relatedly, the charter school law should be amended to explicitly allow districts to hold charter schools accountable for failing to equitably and effectively serve at-risk student populations.
- Section 17-1723-A should be amended to explicitly permit authorizers to grant charters that specify a particular underserved enrollment catchment area, as identified by the authorizer.
- Section 17-1725-A should be amended to remove the [perverse financial incentives](#) in current law that encourage charter schools to [underserve students with severe disabilities](#) and overserve students with mild disabilities. Relatedly, the definition of an “At-risk student” in § 17-1703-A should include students with disabilities.
- The charter school law should be amended to place strict limits on the expansion of underperforming cyber charter schools and fix the current waste associated with the excessive tuition paid by school districts to cyber charter schools.

With regard to HB 530 and SB 856, ELC supports provisions below that are highlighted in green, opposes provisions in orange, and is neutral with regard to provisions in yellow.

HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1703-A	Adds a number of definitions to new terms including definitions for administrator, associated nonprofit foundation, educational management service provider, charter school foundation, immediate family member, and multiple charter school organizations.	The definition of “administrator” should explicitly include employees of “educational management service providers” who also have the authority to take “official action of a non-ministerial nature” and should also include employees of “multiple charter school organizations.” (See below). Should clarify that “educational management service providers” are subject to the Right to Know Law. See 65 P.S. § 67.102.	Neutral with Amendments
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓		§ 17-1704-A	Creates a “Charter School Funding Advisory Commission”	The make- up of the Commission is more evenly balanced than in previous iterations . However, the purpose to “examine how charter school entity	Support with Amendments

				finances affect opportunities ... to establish and maintain schools that operate independently from the existing school district structure as a method to accomplish [the intent of the charter law],” is still too narrowly focused on expanding charter schools, rather than on finding the proper balance between providing additional choice through charter expansion and maintaining the value of neighborhood schools that are always available for all students in a community. The finances of charters and districts are inextricably linked, and it would be a missed opportunity if the Commission was not explicitly charged with conducting a full investigation into charter funding that considers the entire impact on our constitutional “thorough and efficient” system.	
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1715-A(a)(5)	SB 856 allows charter schools to use churches, synagogues, mosques, temples and other religious facilities to provide public education so long as separate entrances are used and symbols are covered to the extent reasonably possible.		Neutral
✓	✓	§ 17-1715-A(c)(1)(i)	Permits charter administrators to receive compensation from numerous other charter schools so long as they disclose the compensation and receive the consent of each board.	There should be some limits on this practice and this should no longer be necessary if Multiple Charter School Organizations are created.	Neutral with Amendments
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1715-A(c)(3-4) § 1716-A	Anti-nepotism and conflict of interest provisions	Good amendments that clarify existing law.	Support
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	24 P.S. § 17-1716.2-	Creates Fund Balance Limits		Support

		A(5) (in SB 856)			
		24 P.S. § 1731.1-A (in HB 530)			
HB 530	SB 856	Section	Amendment	Comments	ELC Position
	✓	§ 17-1717-A(i)(2)	Removes the requirement that charter applicants prove their community support by gathering signatures before permitting an appeal to the CAB		Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
	✓	§ 17-1717-A(j)-(k)	Adds subsections (j)-(k) to force the School District of Philadelphia to receive new charter applications	The School District of Philadelphia is under fiscal distress and clearly cannot afford new traditional charter schools without harming the quality of education for students in neighborhood district schools. This provision, which was also included in the cigarette tax in 2014, would be made permanent and would have a long lasting negative impact on the city.	Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1719-A(a)(18)	Requires charter schools to enforce truancy laws.	This is a much needed reform as many charter schools simply dis-enroll truant students rather than implement necessary supports and interventions, forcing school districts to do all the work associated with eliminating truancy.	Support
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	24 P.S. § 17-1719-A(b)	Requires PDE to develop a standard form for new charter school applications.	This is generally good. However, the bills prevent school districts from adding any additional terms or requiring any additional information. Since the educational outlook is different in every community, it is impossible for PDE to foresee the unique needs of each community. There is a reason why we elect local communities and give them a certain	Neutral with Amendments

HB 530	SB 856	Section	Amendment	Comments	ELC Position
				amount of local control. This will treat every community the same.	
✓	✓	§ 17-1720-A(a)(2)(i)	Increases original charters from 3 to 5 years.	This would strike a major blow to charter school accountability. The end of the term of a charter is the only time an authorizer is required to “conduct a comprehensive review” of a charter school. Therefore, the longer the term of a charter, the longer it takes for true accountability for charter school performance.	Oppose
✓	✓	§ 17-1720-A(a)(2)(iii)(A)	Permits renewals of charter terms from 5 to 10 years for charters that are performing “satisfactorily.”	See comment above	Oppose
✓		§ 17-1720-A(b)	Removes the School District of Philadelphia’s ability to grant one-year charters	See comment above	Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1720-A(c)	Allows charter schools to amend their charters and appeal denials of amendment requests to the Charter Appeals Board.	Charter schools should not be permitted to amend their charters against the will of their authorizing school district. Under the law, a charter is “legally binding” on both the charter and the authorizing district. <i>See</i> 24 P.S. § 17-1720-A. This cannot be rationally reconciled with the ability of one party to change the terms at any time. In addition, the law is unclear by what standard the CAB should review appeals on amendment requests. This provision could invalidate all negotiated enrollment caps in Philadelphia.	Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1721-A(a)(7)-(8)	Requires that the “parent” on the CAB be a charter school parent. Also adds two new members to the CAB: “an administrator of a charter school entity” and a “member of the board of trustees of a charter school.”	Stacks the State Charter School Appeal Board with additional pro-charter members, but not any additional pro-district members. Presumably, this stacking of the deck will lead to more favorable decisions	Oppose

				from the CAB for charter schools and less favorable decisions for districts.	
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1722-A(b.1)(1)	Gives charters right of first refusal to buy district buildings no longer in active use, even if the district doesn't want to sell the building.	The democratically elected members of School Districts should have the ability to control the taxpayer's property.	Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1722(f)(3)(i)	Fines charter schools if they sell or consume alcohol on grounds.		Neutral
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1723-A(a)(2)	Appears to require backfilling for student enrollment.	This is a needed amendment. However, the language could be more explicit and should clarify that charters need to post their capacity and current space available on their website.	Support
✓	✓	§ 17-1723-A(a)(3)	Requires that a standard student enrollment application be created by PDE.	Good and necessary amendment. However, the statute requires that parents provide email addresses, which would create an enrollment barrier to many students and should be amended.	Support with Amendment
✓	✓	§ 17-1723-A(b)(1)	Deletes confusing language that currently says charter schools can "limit enrollment" to areas of concentration such as math or science.	Good and necessary amendment. This provision has always been confusing and could be construed to permit discrimination.	Support with additional amendments to 1723-A (see above)
✓		§ 17-1723-A(d)	Removes ability of school districts to even negotiate enrollment caps on charter schools.	This would immediately invalidate dozens of enrollment caps in Philadelphia charter schools and would allow even poorly operated charter schools to expand without any limits. It would likely result in massive additional expenses to the district and harm the education of students in district schools.	Strongly Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
	✓	§ 17-1725-A	Adds a new deduction for revenues that come from competitive grants,		Support

			contributions or donations prior to calculating the charter tuition rate		
✓		§ 17-1725-A	Adds deduction for cost of food service prior to tuition calculation for cyber charter schools Adds deduction for costs of previous year's payments to cyber charters, but only for 2015-16 and 2016-17.		Support
✓		§ 17-1725-A(3.1-5)	This replaces the current system of districts paying charters, with a system in which the secretary of education would deduct state payments to districts and directly pay the charters. These new provisions provide for charter payment to be automatically deducted by PDE from the authorizing district's state subsidy. The burden of producing evidence and proving any inaccuracies is shifted entirely onto the school district.	This is a strongly anti-school district provision. It favors charter schools over districts in every dispute about funding. This is also a bit confusing, because currently much of the charter revenue actually comes from local property taxes. This will mean that charters are essentially paid for by state taxes and districts are paid for by local taxes. The share of a district's revenues will become even more heavily dependent on local property taxes.	Strongly Oppose
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 17-1728-A(a)(3)	Appears to be trying to restrict district access to charter schools special education records if not permitted under FERPA.	If charters are to be held accountable, their authorizers must have access to student and teacher records. None of this access violates FERPA, so long as districts are using these records in the effort to evaluate a charter school's compliance with the law as they are charged with doing under the CSL.	Oppose
✓	✓	§ 17-1728-A(d).	Provides for each charter school to conduct an annual independent audit.	Good provision. Should be amended to cover educational management service providers.	Support with Amendment
HB 530	SB 856	Section	Amendment	Comments	ELC Position
	✓	§ 1728.2-A	Provides "Charter School Authorizer Accountability" including sanctions for authorizers when their charter schools underperform.	Authorizer accountability, as opposed to actual charter accountability, is a new fad among the charter school lobby. Meanwhile, <i>it's useless to blame authorizers for poorly performing charters without giving</i>	Neutral with concerns

				<p><i>them stronger legal leverage</i> to hold the actual charter operators accountable themselves. Ironically, the legislation would require authorizers to create a “strategic vision” for chartering, but all other amendments in these bills prevent authorizers from doing anything unique or strategic with regard to charters. District authorizers would be forced to receive all new applications, they <i>could not add</i> any additional or unique requirements to applicants, they <i>could not request</i> any additional information than what the law would allow, and they would not have greater authority to revoke charters.</p>	
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 1729.1-A	Adds new provision requiring that charters institute a “system of evaluation for educators”	Now charter teachers would also be evaluated based largely on test scores, as has already been the case for school districts. This is a questionable requirement for both district and charter schools.	Neutral with concerns
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	24 P.S. § 1729.1-A(b)	<p>Provisions permit “two or more” charter schools to share one school board and create a “Multiple Charter School Organization”</p> <p>Essentially MCSOs are school districts with no geographical restrictions. This could theoretically result in one massive MCSO that includes every charter school in the entire Commonwealth, one board for all 175 charter schools. Alternatively, it would allow one board for an MSCO based in Harrisburg that covers Pittsburgh and Philadelphia charter schools, thus preventing families from accessing their school governance.</p>	<p>There are a number of charter networks that already exist in Pennsylvania and legislation should be enacted to permit them to streamline their operations. However, this legislation leaves too many questions and permits much more leeway than necessary.</p> <p>For example, what is the LEA for liability purposes? There’s only one governing body, so presumably it is the MSCO. Thus, when one charter school is liable for violating special education law, it appears that revenues from other charter schools could be used to pay the costs.</p> <p>In addition, the bills are silent about other financial rules. Presumably, an MCSO can share funds within the network. One school with lots of</p>	Oppose without more clarification.

			<p>Meanwhile, the law mandates that MCSOs must always be granted by their local districts or the PDE, so long as a single one of the charter schools in the group is “performing satisfactorily” on the performance matrix and on fiscal audits, even if the other charter schools are not. Thus, 10 “failing” schools could consolidate, so long as an 11th school is added that’s not a failing school.</p> <p>In addition, an existing MSCO can add as many additional existing charter schools as it wishes, so long as there is one school performing satisfactorily.</p>	<p>special education tuition could send their funds to another with less.</p> <p>The law is also unclear how the MSCO itself is funded.</p> <p>There is missing language to indicate that MSCOs are subject to the same laws as individual charter schools, including open meetings and open records laws. <i>See</i> 24 P.S. § 4-408; 65 P.S. § 67.102.</p> <p>The bills state that students can move around within the MSCO if it is in “the best interest of” the student. Does that mean the law allows involuntary transfers of students from one school to another? Will students receive due process in such a situation?</p> <p>The bills contain no process for revoking an MSCO. Does that mean that once one is created it always exists unless every one of its charters has been revoked? Or can an MSCO be revoked if none of its charters are “performing satisfactorily”, since that’s the standard for creating one to begin with? This leaves much uncertainty.</p>	
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	<p>§ 1731.1-A (for SB 856)</p> <p>§ 1731.2-A (for HB 530)</p>	<p>Requires the State Board of Education to create a new performance matrix for all charter schools. Districts would be required to use this matrix and could not add or amend the matrix.</p>	<p>There should not be a totally separate matrix for charter schools than we have for school districts.</p> <p>Meanwhile, this one-size-fits-all approach doesn’t recognize the unique needs of individual communities.</p> <p>Any matrix should include criteria that evaluates relative to the authorizing school district, how equitably a charter school serves students in poverty, students with the full range of disabilities, ELL students, and</p>	<p>Oppose without Amendments</p>

				students experiencing homelessness and foster care.	
HB 530	SB 856	Section	Amendment	Comments	ELC Position
✓	✓	§ 1745-A(e)(3)(iii)(A)	Permits cyber charters to receive 10-year charters if they are performing satisfactorily.	See comments above. Longer terms, means less accountability.	Oppose

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