

RACING TO TEACH KIDS YOUNG. BUT, HOW TO PAY FOR IT?

It makes sense to provide very young children with the benefits of an enriched educational environment. Practically no one disagrees with that statement. But - they do argue over who should pay for it. The argument took center stage in the recent Pennsylvania Supreme Court case of *Slippery Rock Area School District v. Pennsylvania Cyber Charter School*, No. 27 WAP 2010 slip op. (Pa. S.C. Nov. 23, 2011), in which the Court was asked to rule whether a school district should foot the bill for a pre-school program for four year olds provided by a cyber charter school that served district children.

The cyber charter had provided a pre-school program for children four years old and up for which it sought funding from the school district. The school district, which provided a kindergarten program, but only to children five years old and older, argued that it was not required to fund the charter school's program for four year olds.

In agreeing with the district, the Supreme Court referenced the Pennsylvania School Code which allows, but does not mandate, that a school district establish a kindergarten program for children age four to six. While a district is obligated by the Code to provide an education to all children from ages six to twenty one who live within its geographic boundaries, there is no statutory right to a kindergarten education in Pennsylvania. A charter school, in contrast, is not obligated to offer its services to the entire cohort of six to twenty one year olds but can set the ages or grades it wishes to serve including setting the age of enrollment for its pre-school.

The issue that drove the dispute was not whether the cyber charter could provide pre-school for four year olds but who should fund the program. The Court held that it was not the District. While a cyber charter school may set its own entrance age for pre-school, the school district does not have an obligation to pay where the cyber charter's admission policy does not align with that of the district.

While the opinion was clear in resolving an issue that has been simmering between charter schools and school districts for some time, it still (of necessity) leaves open the normative question of how to fund pre-school education. While the debate is likely to continue for years to come, the Pennsylvania Department of Education is trying to provide a solution by competing for a grant through the United States Department of Education's Race to the Top - Early Learning Challenge. The request, which runs into the multiples of millions of dollars, focuses on serving high needs children through the provision of high quality programming designed to provide measurable positive outcomes.

Pennsylvania's 300 page submission details the Commonwealth's plan to increase the number and percentage of low income and disadvantaged children who are enrolled in high quality early learning programs.

It focuses on developing an entry observation tool for kindergarteners to be used by teachers during the first few weeks of a child's enrollment and to develop a web-based tool to analyze that observation data as well as to provide a resource for families. It proposes to make high quality accountable programs accessible to more children with high needs - programs such

as Keystone STARS, Head Start and Pre-K Counts as well as licensed nursery schools, school district pre-k programs, and pre-school intervention programs. And, importantly, it proposes to align what children learn in kindergarten with what they are going to be taught in higher grades to ensure that the gains they make in kindergarten are maintained as they go into first grade and beyond. Backing this up is a commitment to improve the education of pre-k and kindergarten teachers.

Pennsylvania should know within the next couple of weeks whether it will get the funding or not. If it does, and the money is spent wisely, many more children in the Commonwealth will get the good educational start they need to prepare them for success in school and beyond. And, that is good for all of us.

Wendy Beetlestone is a shareholder at Hangley Aronchick Segal Pudlin & Schiller where she chairs the law firm's Education Group.