



INFRASTRUCTURE PRACTICE

ALERT

CHANGING PENNSYLVANIA'S CHARTER SCHOOL LAW: THE TOP FIVE PROBLEMS WITH SENATE BILL 1314

By Alan F. Wohlstetter

When voting unanimously to report Senate Bill 1314 out of committee earlier this month, the Pennsylvania Senate Education Committee has shown great vision in creating a system of greater accountability for charter and cyber charter schools. That said, there are a number of areas where the proposed legislation fails to recognize that charter management organizations have a role to play in bringing efficient and tested models to the charter school community. Further, Senate Bill 1314 puts restrictions on charter schools unnecessary in light of the federal restrictions their 501(c)(3) status demands.

CMOs Not Permitted

Senate Bill 1314 presumes that educational management organizations (EMOs) and charter management organizations (CMOs) are the same type of entity and should be subject to the same limitations. CMOs can offer a standard school model and operating efficiencies for the benefit of their students. It would be important to add a definition of CMOs, with an understanding that these nonprofit organizations, unlike EMOs, are 501(c)(3) organizations governed by federal tax law, without a real need for separate state regulation and a ban on contracts between an administrator and more than one charter school. With home-office support agreements in place with the CMO, successful charter school models can be replicated efficiently with loyalty to their unique elements.

No Freedom To Negotiate Renaissance School Contract With the School District

A school district cannot impose additional terms or require additional information outside the standard application process. This may complicate setting interim performance standards for the seven Renaissance schools scheduled to be turned over to four charter school operators this year.

Needless Restrictions on Board Members

As board members of a 501(c)(3) corporation, charter school board members may not take any action negatively affecting the 501(c)(3) status of the charter school. And the existing Charter School Law makes them public officials subject to the Ethics Law. These measures obviate the need for additional prohibitions such as a ban on any contracts for board members with the school district, an educational management organization, a charter school foundation other than a college or university, or as an agent for a vendor with the school district or the charter school.

Demonizing Charter School Foundations

Charter school foundations are 501(c)(3) corporations governed by federal tax law, without a real need for separate state regulation, such as the ban on a charter school board member (or his/her family member) being employed by a charter school foundation. Since

both foundations and the charter schools are 501(c)(3) corporations, there is no legal or tax reason why they cannot enter into contracts together consistent with their 501(c)(3) purposes, including a foundation owning a building and leasing it to the charter school. Since the Charter School Law originally banned charter schools from owning their own building, foundations initially became important as the ownership entity facilitating 30-year mortgages for charter schools, locking in long-term rates that left more funding for supporting students and teachers. To retroactively criminalize such arrangements is as inefficient as it is unfair.

Audits Permitted by Philadelphia's Controller

Under Senate Bill 1314, charter schools are required to be audited by an accountant from a list approved by the new state Office of Charter and Cyber Charter Schools. In addition, the board of each charter school is required to have a separate audit committee, the school

district conducts a comprehensive review annually, and the new state Office can conduct a special review. So why is it necessary for the City Controller to be authorized to conduct an annual audit?

As drafted, Senate Bill 1314 goes a long way toward bringing accountability and transparency to charter and cyber schools. With the changes we are suggesting, the legislation can remove duplicative and confusing restrictions while supporting the growth of charter management organizations developed around a common educational model that efficiently support its schools with staff recruitment, student instruction, assessment strategies and professional development, helping to ensure we continue to learn as we teach.

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