

Testimony to the Basic Education Funding Commission
Susan L. DeJarnatt
Professor of Law, Temple University Beasley School of Law¹

Thank you for the opportunity to present this testimony. I am a law professor at Temple University where I've focused my [research and writing](#) on public education issues for the past twenty years. I am also a long time public school parent; my children attended Philadelphia's public schools from 1989 through 2013. My scholarship focuses on the governance of charter schools, the importance of oversight over the sector, and the financial impact of charter schools on the overall system of education. I know you have now heard hours of testimony about nearly every aspect of school funding in the Commonwealth. I will try to avoid repetition and keep my focus on the specific role of charter schools in the current funding system.

Charter schools are an important part of the Commonwealth's system of education. But they are not an efficient part of that system because of the way they are now funded. If the legislature solves the education equity challenges found in the *William Penn* case with no changes to the charter elements of the funding system, charters will be the outsized beneficiaries of the new state investments at the expense of the traditional schools.

Charters are not the silver bullet to solve Pennsylvania's funding problems. The fundamental problem is lack of money. Charters are concentrated in low wealth underfunded school districts, and they suffer from that underfunding just as the traditional schools do. Judge Jubilier found that charters in underfunded school districts do not outperform the traditional schools and in some cases have [worse academic outcomes](#) for minority and low income students. The opinion emphasized that both charters and traditional schools suffer from inadequate funding and that economically-disadvantaged students in charter schools perform worse than those in traditional public schools.² The unconstitutional underfunding of schools leads to failure across both sectors. The solution is equitable funding as required by the Constitution, and employment of adequacy targets to meet the needs of all schools.

Charters and traditional schools are in this together because charter funding depends on funding of district schools. It is important to first understand how charter tuition is calculated. Charters receive tuition from school districts through a calculation based on the per pupil funding of the charter's authorizing district. The calculation deducts certain elements, including federal funding, transportation costs because the districts remain responsible for transportation under Pennsylvania law, and non-K-12 expenses like preschool and adult education. The calculation is based on the district's prior year expenses, so it runs a year behind. Thus, major cuts to or increases in district funding will affect the charter tuition in the next year. Because charter funding is based on district funding, the necessary increases to districts will also result in increased funding to charters.

¹ Affiliation provided for identification only. I do not speak for Temple or the law school. I serve on the Board of Directors of the Education Law Center, the Editorial Board of the National Education Policy Center, and am the Co-Chair of the New Jersey-Philadelphia Chapter of the Scholars Strategy Network.

² *William Penn S.D. v. Pennsylvania Dept. of Ed.*, 294 A. 3d 597 at 779, 930 (Pa. Commw. Ct. 2023).

Charter schools cost money. Running multiple school systems duplicates administrative expenses and facilities costs. Districts must also incur expenses related to processing applications for new charter schools and for oversight of existing ones. Districts also incur ongoing [stranded costs](#) because there is no one to one correlation between a student leaving a school district and that district being able to reduce costs. Charters typically draw students from across the entire district which means that any given district school may have fewer students but often not in numbers or distributions that allow the school to reduce staff. The district still must heat and maintain the building, employ administrators, keep an adequate teaching staff, and otherwise meet the needs of the remaining students. School districts need to plan and budget for charter growth. Uncontrolled charter growth impedes the district's ability to plan and make efficient use of funds to meet the needs of all the district's students, charter and traditional. As Charles Zogby noted when he was the financial administrator for Erie's school district, "curbing future charter school enrollment growth is the District's [single biggest lever](#) to positively impact its future budgets and better ensure its fiscal solvency going forward."

This Commission must consider ways to increase spending on public education but there are also several important steps the Commission can take to reduce expenditures that are not going towards education. Updates to the funding formula for charters also will enable significant savings that will help the legislature meet the funding needs required by the constitution. The Commission would be remiss not to consider the flaws in charter funding and to correct them.

First, the cyber charter funding formula is [irrational](#). A flat tuition for all cyber students would rationalize the expense of cyber charters and would save funds. This reform is clearly warranted as the cyber charters have built up a surplus of over a quarter of a billion dollars [through](#) the current system. Cyber tuition should be based on the actual costs to educate the students, not on the happenstance of where the students live.

Second, the Commission should update the calculation for special education funding for charter students, as recommended by the 2015 Basic Education Funding Commission. The Charter School Law as currently written provides [more generous](#) special education funds to charter schools than it does to traditional public schools and it does not require charters to spend special education funds on special education. State funding for special education must be increased for low wealth districts and some of the funds to make that possible can come from creating consistent special education formulas for charters and traditional public schools. Now is the time to fix this disparity because charters will get a big influx of money with the general increased funding which will ease their transition to a fair system, instead of one where they rely on special education funding to cover non-special education costs.

Charters are a significant part of the Commonwealth's system of public education. There are [162 bricks and mortar charters and 14 cyber charters](#) in Pennsylvania. Although charter proponents frequently argue that more charters are needed because of demand, there is no reliable data on charter waiting lists. A review of Philadelphia's robust charter system shows that many charters are under enrolled now, calling in to question the waiting list claims. There were [nearly 7,000](#) empty

charter seats based on the October 2022 enrollment.³ I am advised by the Charter School Office that the number of empty seats as of October 2023 has increased to 7634. Cyber charters do not have enrollment caps and the 14 existing schools provide ample opportunities for any family who prefers on-line learning. Given the critical need for updating of the Charter School Law and the need for careful consideration of how charters can best fit into the thorough and efficient system of public education, a moratorium on charter expansion should be put in place until that updating occurs.

Refining the funding formula to account for the true cost of charter school education will help the Commonwealth to meet its constitutional obligation to ensure that “every student receive a meaningful opportunity to succeed academically, socially, and civically,” and will enable charter and traditional schools to more effectively provide all of their students with “access to a comprehensive, effective, and contemporary system of public education.”⁴

³ This data is derived from the enrollment figures in the ACE reports on the Philadelphia School District website. Each report sets out the actual enrollment at the school along with the enrollment allowed by the school’s charter.

⁴ *William Penn S.D. v. Pennsylvania Dept. of Ed.*, 294 A. 3d 597 at 962 (Pa. Commw. Ct. 2023).