



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: May 5, 2021

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Terri Hancharick – Chairperson *TH*
State Council for Persons with Disabilities

RE: HS 1 for H.B. 54 (Mid-Year Unit Count)

The State Council for Persons with Disabilities (SCPD) has reviewed HS 1 for H.B. 54, which amends Title 14 of the Delaware Code to introduce an optional mid-year unit count of the student populations in all school districts and charter schools. SCPD endorses the proposed legislation and has the following observations.

§1704 of Title 14 currently requires a count of the total enrollment of students in each school on the last school day in September of every school year (known as the “actual unit¹ count.”) An “estimated unit count” is required to be completed every April 15 of every school year, estimating student population for the following September’s actual unit count. The estimated and actual unit counts are critical to determining school funding designated to each school district and charter school.

¹ 14 Del C. §1703 defines “unit of pupils.” The number of students in a unit depends on factors such as grade level, special education eligibility, and half-time/ full-time kindergarten status. Youth receiving special education services are counted in separate units, with different numbers of students included in these separate units depending on the nature of services provided (for example, there are 20 students in a Grade 4-12 regular education unit, 8.4 students in a basic Grade 4-12 intensive special education unit, 6 students in a PreK-12 intensive special education unit, and 2.6 students in a PreK- complex special education unit. ‘

HS1 for HB 54 amends Title 14 to add §1704a, which introduces an optional mid-year count of students within district public and charter schools. The count would be held on the last school day of January. The stated goal of the “optional mid-year unit count” would be to “identify school districts and charter schools that experience unit growth during the school year but after the actual unit count” that is held annually in September. Units would be calculated in the same way that units are typically determined during the regular count.² HS1 for HB 54 proposes that “[s]chool districts and charter schools that elect to participate in the optional mid-year unit count shall receive state financial support for each additional unit or fraction thereof in an amount determined by the annual Appropriations Act.” School districts and charter schools may use the additional funding to pay for any “Division I, II, or III purpose” (which includes school personnel, school costs and energy, and educational advancement). Schools that opt-in to the mid-year count will not have their funding decreased from the amount determined by the previous September annual actual count.

Additionally, HS1 for HB 54 proposes that “[f]unding associated with the additional units generated by the optional mid-year unit count shall be utilized only in schools which experienced unit growth between the last school day in September and the last school day in January.”

The proposal acknowledges the difficulties schools can face in providing adequate staffing and resources if school populations fluctuate throughout the year. Schools that have substantial increases in the number students in their school building mid-year will be able to adequately fund additional teachers, support staff, or other needs associated student population growth that would otherwise not be included in their funding determined by the September annual count. School districts and charter schools will not be penalized for participating in the mid-year count because they only have the potential to increase their funding without risk of losing funding. The proposed legislation also ensures that increases to school district funding as a result of the mid-year count will only be used by schools that experienced growth between September and January, ensuring that funds are designated to the schools within a district that may be under-resourced as a result of mid-year population growth.

The introduction of a mid-year count may offset some of the impact charter schools may have on public school districts, addressing arguments made by charter school critics throughout the country that charter school disciplinary practices and

² See Footnote 1.

standards can lead to high rates of expulsion or “push-out,” in turn leading to a greater number of students entering traditional public schools from charter schools mid-year,³ which may also disproportionately impact students of color and students with disabilities.⁴ While debates surrounding charter schools are complex, this proposed legislation addresses one area of possible tension between traditional public school districts and charter schools. The proposed legislation ensures that any school that accepts a substantial number of transferring students mid-year would be provided with accompanying financial support.

SCPD endorses the proposed legislation and certainly supports that the money follows the student.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position and observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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³ Valerie Strauss, *Problems with charter schools that you won’t hear Betsy DeVos talk about*, WASH. POST. (June 22, 2017), <https://www.washingtonpost.com/news/answer-sheet/wp/2017/06/22/problems-with-charter-schools-that-you-wont-hear-betsy-devos-talk-about/>; George Joseph & Citylab, *Where Charter-School Suspensions are Concentrated*, ATLANTIC (Sept. 16, 2016), <https://www.theatlantic.com/education/archive/2016/09/the-racism-of-charter-school-discipline/500240/>; Elizabeth A. Harris, *Report Faults Charter School Rules on Discipline of Students*, N.Y. TIMES (Feb. 11, 2015), <https://www.nytimes.com/2015/02/12/nyregion/report-faults-charter-school-rules-on-discipline-of-students.html>; Rosa K. Hirji, *Are Charter Schools Upholding Student Rights?*, Am. Bar Assoc. (January 14, 2014), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2014/are-charter-schools-upholding-student-rights/>; Emma Brown, *D.C. charter schools expel students at far higher rates than traditional public schools*, WASH. POST (January 5, 2013), https://www.washingtonpost.com/local/education/dc-charter-schools-expel-students-at-far-higher-rates-than-traditional-public-schools/2013/01/05/e155e4bc-44a9-11e2-8061-253bccfc7532_story.html?utm_term=.6f6cab5f654b&itid=inline_manual_65; Jaclyn Zubrzycki, Sean Cavanagh, & Michele McNeil, *Charter Schools’ Discipline Policies Face Scrutiny*, ED. WEEK (Feb. 19, 2013, corr. Feb. 21, 2019), <https://www.edweek.org/leadership/charter-schools-discipline-policies-face-scrutiny/2013/02>; Victor Leung, Roxanne H. Alejandre, & Angelica Jongco, *Unequal Access: How Some California Charter Schools Illegally Restrict Enrollment*, ACLU SOUTH. CA. & PUB. ADV., https://www.aclusocal.org/sites/default/files/field_documents/report-unequal-access-080116.pdf.

⁴ Daniel J. Lowen, Michael A. Keith II, Cheri L. Hodson, Tia F. Martinez, *Charter Schools, Civil Rights, & School Discipline: A Comprehensive Review*, Civ. Rights Proj., UCLA (Mar. 15, 2016), <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/charter-schools-civil-rights-and-school-discipline-a-comprehensive-review>; Joseph & Citylab, *supra* note 3; Hirja, *supra* note 3.