

Legislative Report – Mr. Mahler (written report as follows)

Federal Legislation/Issues:

The National School Boards Association is urging the U.S. Supreme Court to hear the "I Heart Boobies!" case and reverse an appellate court decision that found the cancer awareness bracelets are not lewd. The brief urges the Supreme Court "to recognize the authority of school officials to regulate student speech during the school day if such speech disrupts the school environment or interferes with the responsibility of schools to teach civil discourse as an inherent democratic value and to protect the rights and sensibilities of other students," Gentzel said in a statement. "(I Heart Boobies") is one example of a type of student speech that school officials encounter daily: sexual double entendre intended to push boundaries, sometimes touching on a political or social concern," the brief states.

Charter School Progress Rules: The U.S. Department of Education says the Pennsylvania Education Department "acted prematurely" when it changed rules for how charter schools can meet academic-performance standards on the annual PSSA achievement test. In late July, without public notice, the state Department of Education filed the proposed change with the federal Education Department. The federal department is still reviewing the request. Instead of averaging the scores of all tested students to make AYP, under the new rules charters could average the test scores of only a few grades to meet state benchmarks, the way it is done for entire school districts. Under the new rules, charters did about as well statewide this year as public schools, and much better than regular schools in several urban districts. About 49 percent of charters statewide made Adequate Yearly Progress in 2012, compared with 51 percent of all Pennsylvania schools. The school boards association estimates that, under the old rules, only 33 of 156 charters with PSSA scores - 21 percent - would have gotten the "Made AYP" designation, instead of 49 percent. In Philadelphia, association figures showed, 20 percent of charters would have made AYP, instead of 54 percent.

School Meal Rules: U.S. regulators are permanently relaxing school meal rules that were designed to combat childhood obesity by reining in calories and portion sizes but aroused complaints the policies caused students to go hungry. The U.S. Department of Agriculture had initially loosened the rules in late 2012, suspending daily and weekly maximum amounts for grains and meat or meal alternatives. That allowed school districts to service larger portions without penalty.

Pennsylvania Legislation/Issues:

Current Issues:

As they prepare for budget hearings, the Pennsylvania House Appropriations Committee is asking for help in preparing to question cabinet members. In releasing the schedule for the hearings Thursday, Chairman Bill Adolph, R-Delaware, asked members of the public to submit questions that committee members could then pose to the department heads that will appear before them next month. Residents can submit questions through the "Public Budget Hearing Participation" link of the www.pabudget.com website. Hearings for the Public School Employees Retirement System/State Employees Retirement System and Department of Education will take place on February 12.

Athletics Spending: Because of Act 82 of 2012, public schools are required to disclose the amounts spent on school sports. The state is making the data available online as of January 15, 2014. The data should be available by district, by sport, and by gender. The intent is to help taxpayers, parents, students and districts themselves gauge how well districts are complying with the 1972 federal law known as Title IX, which requires gender equity in colleges and schools that receive federal money. These figures do not include spending by booster clubs and other non-school support. The state plans to add this information in the next round of reporting.

According to PSBA, districts are spending dozens of hours and thousands of dollars to comply with the detailed level of information required for the Act 82 reports for every team in grades 7-12. Because of this, there is legislation pending in the House to amend Act 82. **House Bill 1734** relieves the cost of implementation by:

- 1) Limiting the reporting requirements to data for the immediately preceding year;
- 2) Eliminating the historical reporting requirement with respect to the year of establishment, reestablishment, elimination or demotion of each sponsored team;
- 3) Removing the requirement that public schools report on the value of contributions and purchases made by booster clubs, alumni, and other non-school sources; and,
- 4) Creating a three-year sunset on the law.

Student Speech Policies Ruling: In March, the U.S. Court of Appeals for the 3rd Circuit affirmed a lower court order finding two policies at Pocono Mountain School District in Northeastern Pennsylvania unconstitutional. The policies were used to prevent a fifth-grade student from handing out invitations to a Christmas party at her church. The Pennsylvania School Boards Association is recommending districts evaluate their policies in response to the ruling.

A.B. v. Line Mountain School District: A middle-school girl who was barred from joining a scholastic boys' wrestling team has won a preliminary injunction against her Harrisburg-area school district in federal court. U.S. District Judge Matthew W. Brann sided with the girl, 12, and her parents, finding they had made the case that she would suffer irreparable harm by missing out on athletic development if she is kept off the team since there are no other reasonable options for her.

Pending Legislation:

House Bill 1741: House passage of a bill requiring advance public notice of some key school board contract votes was hailed by many lawmakers last week as a victory for government transparency. Majority Leader Mike Turzai, R-28, Pittsburgh, calls it an important reform bill. Opponents said contract sunshine is a worthy goal, but they cited a variety of reasons for voting "no" ranging from concerns the bill doesn't go far enough to worry about added costs placed on school districts and property taxpayers. The measure which goes to the Senate would require school boards to provide public notice no less than 48 hours before voting on a proposed collective bargaining agreement or a professional educator employment contract. This notice would include a statement of terms and cost estimate and be posted on the school district website and published in a newspaper. However, "The cost of publishing these agreements is a financial burden to school districts," said Mr. Carroll, a member of the House Education Committee. Mr. Pashinski said the scope of the bill needs to be widened. He said to be fully transparent, the bill should require advance notice of votes on contracts dealing with charter schools, school buses, insurance, accounting and other services. "They don't address anything other than employee contracts," he added. "It should be for all contracts a school board decides upon."

SchoolWATCH: A proposal to make a searchable website of Pennsylvania public school expenses is now before the state Senate for consideration following passage in the House. The measure would require public schools to submit their expenses annually to the Department of Education. Eventually, the agency would display the information in a searchable website online.

HB 1738: This bill, passed by the House, would establish a commission would look at how the state's \$10 billion in support for public education is divided between school districts. The commission would have to recommend a funding formula taking into account: the market value and personal income levels in a district over a three year span, equalized millage rate, geographic price differences, "exceptionally high" enrollment growth, districts that receive an "exceptionally high level of support, the percentage of students in poverty, district population density and the percentage of students with limited English skills. After its initial set of recommendations, the commission would meet every five years to review the formula.

RELATED NOTE: This follows testimony before a panel of state lawmakers by Rhonda Brownstein, executive director of the Education Law Center in Pennsylvania. She said her organization, in conjunction with the Public Interest Law Center of Philadelphia, is preparing to file a lawsuit arguing that the state has violated its constitutional requirement to provide a "thorough and efficient system of public education." Public-school advocates claim the state underfunds schools and fails to allocate money transparently or equitably, putting poorer districts at a distinct disadvantage. Pennsylvania is one of just three states that do not factor differing economics among districts for school funding, according to the ELC. Timothy Eller, spokesman for the state Department of Education, insisted the state has not violated its constitutional mandate. "There is a funding formula in place that the General Assembly passes every year, including the year that we're in, that drives dollars out to schools," he said. "Are there some that disagree with that formula? Absolutely . . . but that's the result of a legislative process.

The Gabriella Miller Kids First Research Act was approved last month by the State House. The bill will divert about \$12 million dedicated for political conventions and redirect it to support children with special needs, such as those with autism and pediatric cancer. The House is now calling on the Senate to pass this bill.

SB 1085, Charter School Reform: As noted last month, the bill is coming up for "Third Consideration." Mrs. Grosheider is part of a PSBA committee that is trying to address problems with SB 1085. PSBA has developed an extensive document that will be submitted to Senator Smucker outlining concerns with the bill, as well as suggested changes. The committee has agreed that reform of the funding formula is the top issue.

RELATED NOTE: Pennsylvania Auditor General Eugene DePasquale said Wednesday that his office would hold public meetings on improving the "accountability, effectiveness, and transparency" of charter schools across the state. "We hope to use these public meetings to identify potential improvements to charter school oversight so we can be sure that Pennsylvanians are getting the best value for our tax dollars and that our children are receiving the best education possible," DePasquale said in a statement. Four two-hour meetings are scheduled to be held across the state in late February and early March. Comments can be e-mailed to swoods@auditor.gen.state.pa.us by Feb. 19.

SB 47: A House-passed bill on Holocaust education is now being considered by the Senate Education committee and may be voted on next Monday. On Dec. 9, the Senate Appropriations Committee changed the language in the bill, from "may teach the Holocaust" back to "shall" – the term used in the original House Bill.

In a decision that could have statewide impact, **Commonwealth Court has ruled that a Lancaster County school district must provide school bus service to a student from both of his divorced parents' homes.** The court's order, issued this week, upholds an earlier ruling by a county judge who found that Manheim Township School District was violating the state Public School Code by refusing to provide such service. The judge observed that the original ruling stressed that the boy has no primary residence because he spends equal time with each parent. "A school district cannot fulfill its transportation obligation by merely designating one parent's residence as the sole bus stop without any consideration of the child's other residence," This judge agreed. "To conclude otherwise would deprive the child of free transportation during alternate periods of custody." And, he observed, by law the district cannot require a pupil to travel more than 1 1/2 miles from his or her home to get on the bus.

HB 1816 has been passed and will move on to the Senate. It would allow teachers, guidance counselors and other school administrators to receive necessary continuing education credits if they visit certain manufacturing facilities. These visits would take educators to manufacturers for in-person tours and orientation programs in manufacturing facilities

Other Issues:

The North Hills School District has reached a tentative contract agreement with its teachers union, according to a statement on the district website Tuesday night from Superintendent Patrick Mannarino. District administrators and representatives of the North Hills Education Association began negotiations in mid-2013. The current contract expires Aug. 23. Both sides will vote on the contract tonight.

PA Education Funding: Gov. Corbett will propose hundreds of millions of dollars in new education funding as the centerpiece of the budget he unveils next month, according to sources familiar with the plan. "We are still \$700 million below 2010-11 levels in overall education funding that needs to be restored," Wythe Kever, spokesman for the Pennsylvania State Education Association, the state's largest teachers' union. "We need to distribute funding based on actual needs; Corbett abandoned that."

Special Education Funding: In the spring of 2013, the General Assembly advanced legislation creating a 15-member Special Education Funding Commission. The commission was charged with developing a system for allocating any new state special education funding in a manner that recognizes the actual number of special needs students in a school district and the various levels of their need for services. Final recommendations from the commission fell into three categories: a new state special education funding formula; a special education funding formula for charter and cyber charter schools; and reforms to distributions under the Special Education Contingency Fund. The new state formula will include factors reflecting students' needs based on three cost categories: category 1 (with annual expenditure levels less than \$25,000), category 2 (between \$25,000 and \$49,999), and category 3 (equal to or exceeding \$50,000). The formula will also include factors reflecting school district community differences such as relative wealth, real estate tax burdens, total student populations and geographic size. The commission determined the special education reimbursements system for charter schools and cyber charter schools should receive similar reforms as the new public school funding formula. Currently, charter and cyber charter schools are provided funding for special education programming directly by school districts based on a broad average of all special education expenditures in a district regardless of the specific needs of the student enrolled in the charter or cyber charter school. To provide greater accuracy and consistency, the commission recommended that payments to charter or cyber charter schools should be weighted using the same cost category structure provided in the recommended state formula. Finally, the commission determined that several changes were needed to the Special Education Contingency Fund to improve

transparency, predictability, efficiency and equity within this important aspect of special education funding. Renamed the Extraordinary Cost Fund to better reflect its purpose, the fund distributions will be better targeted to provide additional funding to schools that have shown costs for educating a student in excess of \$75,000. While these are the recommendations developed by the Special Education Funding Commission, they will not go into effect unless approved by an act of the General Assembly.

Construction Funding: The Pennsylvania Department of Education owes about \$1 billion to numerous school districts for about 350 state-approved renovation and construction projects. In 2011, the administration cut reimbursement payments by \$20 million to \$296 million. Then the department put a moratorium on approving new projects for reimbursement by essentially shutting down the construction review process known as The Planning and Construction Workbook, or PlanCon. The moratorium is in place until June 30, unless the Legislature extends it. But public school officials want the money now, saying losing the state funds has caused them to dip into their own finances, lay off staff, or cut programs. "The need for legislative action regarding the funding of PlanCon is critical and necessary without hesitation to avoid financial ruin of our district and the many others who are facing the same peril due to what I consider to be a deliberate and unconstitutional act," said Richard Bernazzoli, superintendent of the rural Portage Area School District in Cambria County, which has yet to receive \$6.1 million in reimbursements for a 2009 elementary school project.

Cyber Charter School Funding: Temple professor Susan DeJarnatt recently published an article about PA cyber charter school funding. Parsing the tax documents for the 12 cyber charters for which information was available, she found that cyber charters carry large surpluses and spend what she considered a disproportionate amount of Pennsylvania tax dollars on advertising, travel expenses and contracts with outside management and service providers. The "independent" cybers, DeJarnatt writes, "have no direct connection to any public school district." She calls five of these "mega-cybers" because they "enroll the largest number of students and tend to employ outside managers." She counts as "mega-cybers": Agora Cyber, Commonwealth Connections Academy, PA Cyber, PA Leadership Charter, and PA Virtual. These schools, she writes, "tend to carry significant surpluses and have accumulated significant assets." In addition, spending on advertising, travel and management fees often sends a windfall of Pennsylvania taxpayer dollars out of state. Funding levels could be justified, critics of cybers say, if the schools evidenced great gains in student achievement. However, a recent brief by the non-profit Research for Action found that for the 11 cyber charters that the state rated in its School Performance Profile evaluations, all scored among the lowest performers in the state. No cyber charter with SPP scores attained the state average.

State Pension Plans: Senate President Joseph Scarnati, R-Jefferson, has called for Pennsylvania to move "the pension system in line with the private sector and restoring taxpayers' trust in our ability to deal with this financial nightmare." Scarnati said the current defined benefit plans were "obsolete and unsustainable." His focus appears to primarily be on benefits for future employees. Republican House Majority Leader, Mike Turzai, told reporters Tuesday he also supports changing benefits for future state and public school employees, but shares Scarnati's concerns about changing benefits for current state workers and school staff. Turzai said he's not sure how much the commonwealth could save if it changed the pension plans only for new employees. However, Senate Minority Leader Jay Costa, D-Allegheny, said Democrats would be skeptical of making any changes to retirement plans for future hires, and any proposed changes for current workers and retirees "would be a deal-breaker." Public-sector unions in the state are also opposed to any changes and have threatened to sue if retirement benefits are altered. This issue is likely to continue to be debated for the foreseeable future.

Common Core: Pennsylvania adopted the Common Core Standards, now referred to as the Pennsylvania Core Standards, in July 2010. A group of Pennsylvania educators created the PA Core Standards, which mirror the content and rigor of the Common Core, but reflect the organization and design of the state's academic standards, according to the state department of education. Despite the state adopting the standards, Gov. Tom Corbett delayed the implementation, which had been set for July 2013. State lawmakers introduced legislation meant to block the state from going forward with the standards, which was ultimately unsuccessful. In some parts of Pennsylvania, parents have spoken out against the Common Core. One of the criticisms is that groups such as the Bill and Melinda Gates Foundation, which provided funding for the implementation of the standards, did so to sell technology to school districts. Another is that it allows for little if any flexibility in how the material is taught and seeks to impose a one-size-fits-all approach. Others who oppose the Common Core Standards feel it's a national curriculum and that local school districts don't have control, but some school officials say this is not accurate.