

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1359 Session of
2008

INTRODUCED BY HUGHES, MELLOW, TARTAGLIONE, C. WILLIAMS, COSTA,
KITCHEN, LOGAN, WASHINGTON, FERLO, FONTANA, WONDERLING,
BOSCOLA, BROWNE, O'PAKE AND WOZNIAK, APRIL 11, 2008

REFERRED TO EDUCATION, APRIL 11, 2008

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for establishment
6 of programs, for providers, for notification of program and
7 for Educational Assistance Program.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 1502-C and 1505-C of the act of March
11 10, 1949 (P.L.30, No.14), known as the Public School Code of
12 1949, amended December 23, 2003 (P.L.304, No.48), are amended to
13 read:

14 Section 1502-C. Establishment of programs.

15 (a) Establishment.--The Education Support Services Program
16 [and Educational Assistance Program are] is established within
17 the department to provide individual or small group instruction
18 in those subject areas assessed through a Pennsylvania System of
19 School Assessment test and required under the No Child Left
20 Behind Act of 2001 to strengthen the skills that an eligible

1 student needs to achieve the standards in 22 Pa. Code Ch. 4
2 (relating to academic standards and assessment), which shall be
3 provided at a time other than the regularly scheduled school
4 hours. The Educational Assistance Program is established within
5 the department to provide support to school entities in
6 increasing student achievement for students who have not
7 achieved the standards in 22 Pa. Code Ch. 4 (relating to
8 academic standards and assessment).

9 (b) Eligibility.--The department shall utilize the
10 Pennsylvania System of School Assessment test or other test
11 results to identify eligible students for the Education Support
12 Services Program and for tutoring under this article. Scores
13 used to determine eligible students in each grade shall be
14 published annually in the Pennsylvania Bulletin.

15 (c) Approval.--A provider must be approved by the department
16 in order to provide education support services or tutoring under
17 the Educational Assistance Program under this article. A school
18 entity must receive approval by the department for its planned
19 expenditures under the Educational Assistance Program under this
20 article.

21 Section 1505-C. Providers and Educational Assistance Program
22 applicants.

23 (a) [Application] Provider application.--A prospective
24 provider shall submit an application to the department for
25 approval to provide education support services or tutoring under
26 the Educational Assistance Program under this article. The
27 application shall include a description of the services to be
28 provided, a description of the curriculum to be used, the cost
29 of the services, the qualification of all individuals providing
30 those services, including evidence of compliance with section

1 111 and with 23 Pa.C.S. § 6355 (relating to requirement), a
2 description of an assessment mechanism to be used to determine
3 the academic progress of students who receive tutoring services,
4 and such other information as may be required by the department.

5 (a.1) Application.--An eligible school entity shall submit
6 an application to the department for its planned expenditures
7 under the Educational Assistance Program. The application shall
8 include the description of services to be provided from the list
9 of eligible uses under section 1512-C(b), student achievement
10 results that indicate the need for the services, a description
11 of an assessment mechanism to be used to determine the academic
12 progress of students who receive instruction as a result of such
13 services and other information as may be required by the
14 department.

15 (b) Revocation of approval.--The department shall revoke the
16 approval of any provider or Educational Assistance Program
17 application for which the annual assessments required under
18 section 1504-C(7) demonstrate that 20% or more of the students
19 for whom the provider has provided education support services
20 under section 1507-C or [tutoring] the school entity has
21 provided services under section 1512-C failed to make academic
22 progress for two consecutive years. In the case of an
23 Educational Assistance Program application that is revoked, the
24 school entity shall resubmit an application indicating revised
25 or alternative funding uses from the list of eligible uses under
26 section 1512-C(b).

27 Section 2. Section 1506-C of the act, amended July 13, 2005
28 (P.L.226, No.46), is amended to read:
29 Section 1506-C. Notification of program.

30 A school entity in this Commonwealth shall notify parents of

1 the availability of education support services and tutoring
2 under the educational assistance program, if applicable, at such
3 time as the parents receive the results of any eligibility test
4 or whenever the school entity recommends tutoring under the
5 educational assistance program.

6 Section 3. Section 1512-C of the act, amended or added
7 December 23, 2003 (P.L.304, No.48), July 13, 2005 (P.L.226,
8 No.46) and July 20, 2007 (P.L.278, No.45), is amended to read:
9 Section 1512-C. Educational Assistance Program.

10 (a) Purpose.--The Educational Assistance Program shall
11 provide, for the support of [tutoring services to eligible]
12 students in achieving the standards in 22 Pa. Code Ch. 4
13 (relating to academic standards and assessment), funds to
14 eligible school entities in which one or more schools have
15 failed to meet at least one academic performance target.

16 (b) [Eligibility.--] Eligible uses.--A school entity may
17 apply to use funds under this section for any of the following
18 services:

19 (1) Programs that increase the amount of student
20 instructional time, which may include tutoring, an extension
21 of the school day or school calendar or intensive support for
22 students who have limited English proficiency.

23 (2) Implementation of new curricula or course offerings
24 that increase the number of students who graduate from high
25 school prepared for college and high-skill careers.

26 (3) Training of professional employees in the delivery of
27 a curriculum that increases the number of students who
28 graduate from high school prepared for college and high-skill
29 careers, in strategies for addressing the learning needs of
30 students at risk of academic failure or needing remediation

1 or in strategies to ensure that students stay in school until
2 graduation and successfully transition to postsecondary
3 education or the work force.

4 (b.1) Tutoring.--A student shall be eligible for tutoring
5 services under this section where such student is enrolled full
6 time in an eligible school entity and:

7 (1) scored below proficient on a Pennsylvania System of
8 School Assessment test in a subject area required under the
9 No Child Left Behind Act of 2001; or

10 (2) is enrolled in kindergarten through third grade and
11 scored below the score approved by the department under
12 section 1502-C(b) on any other eligibility test; or

13 (3) has been recommended for tutoring by the school
14 entity.

15 (c) Approval of providers.--In order to provide tutoring
16 services through the Educational Assistance Program, a provider
17 must be approved by the department. Such providers may include:

18 (1) a provider approved under section 1505-C; or

19 (2) a school entity.

20 (d) Duties of eligible school entities.--An eligible school
21 entity that offers tutoring under this section shall have the
22 following duties:

23 (1) To annually notify the parents or guardian of any
24 student eligible for tutoring services under subsection [(b)]
25 (b.1) about the availability of tutoring services under this
26 section.

27 (2) To annually provide the parents or guardian of any
28 student eligible for tutoring services under subsection [(b)]
29 (b.1) with a list of all approved providers operating within
30 the boundaries of or around the eligible school entity.

1 (3) Upon request, to assist the parents or guardian of
2 any student eligible for tutoring services under subsection
3 [(b)] (b.1) in selecting an approved provider.

4 (4) To enter into a contract or contracts with a
5 provider approved under section 1505-C and operating within
6 the boundaries of or around the eligible school entity or to
7 offer tutoring services directly to any student eligible for
8 tutoring services under subsection [(b)] (b.1).

9 (e) Tutoring services.--Tutoring services provided under
10 this section shall include intensive instruction in those
11 subject areas assessed through a Pennsylvania System of School
12 Assessment test and required under the No Child Left Behind Act
13 of 2001. Such tutoring services may:

14 (1) Notwithstanding the provisions of section 1502, be
15 provided outside of the normal school day and hours of the
16 school entity, including mornings, evenings, weekends and
17 during the summer months.

18 (2) Take place on an individual or small group basis,
19 provided that tutoring services may be provided to no more
20 than ten students in a given class at a given time during the
21 school term and no more than 15 students during the summer
22 months.

23 (3) Be provided during the normal school day and hours
24 of the school entity, provided that the tutoring is in
25 addition to and does not interfere with an eligible student's
26 regularly scheduled classroom instruction times and does not
27 supplant services required in a student's individualized
28 education program.

29 (f) Duties of department.--The department shall have the
30 following duties:

1 (1) To provide eligible school entities [that provide
2 tutoring services] under this section with technical
3 assistance upon request.

4 (2) To annually assess any provider or school entity
5 that provides [tutoring] services under this section in order
6 to determine the academic progress of students who receive
7 [tutoring] services.

8 (3) To establish program criteria for the eligible fund
9 uses provided for in subsection (b).

10 (g) Educational assistance funding.--

11 (1) During the 2003-2004, 2004-2005, 2005-2006, 2006-
12 2007 [and], 2007-2008 and 2008-2009 school years, the
13 department shall provide each eligible school entity with
14 educational assistance funding calculated by:

15 (i) Dividing the number of Pennsylvania System of
16 School Assessment tests administered in the eligible
17 school entity on which students scored below proficient
18 in reading or mathematics by the total number of
19 Pennsylvania System of School Assessment tests
20 administered in the eligible school entity in reading and
21 mathematics during the 2002-2003 school year.

22 (ii) Multiplying the quotient from subparagraph (i)
23 by the average daily membership of the eligible school
24 entity during the 2002-2003 school year.

25 (iii) Multiplying the product from subparagraph (ii)
26 by the dollar value of funds appropriated to the
27 Department of Education for the Educational Assistance
28 Program in the 2004-2005 fiscal year.

29 (iv) Dividing the product from subparagraph (iii) by
30 the sum of the products of subparagraph (ii) for all

1 eligible school entities that qualify for grant funds
2 under this paragraph.

3 (1.1) During the 2005-2006, 2006-2007 [and], 2007-2008
4 and 2008-2009 school years, the department shall provide each
5 school entity with at least one school that has failed to
6 achieve its 2005 mathematics proficiency target or its 2005
7 reading proficiency target with educational assistance
8 funding for the support of [tutoring services to eligible]
9 students enrolled in seventh through twelfth grades. Such
10 funding shall be calculated as follows:

11 (i) Dividing the number of Pennsylvania System of
12 School Assessment tests administered in the eligible
13 school entity to eleventh grade students on which such
14 students scored below the 2005 reading or mathematics
15 proficiency target by the total number of Pennsylvania
16 System of School Assessment tests administered in the
17 eligible school entity to eleventh grade students in
18 reading and mathematics during the 2003-2004 school year.

19 (ii) Multiplying the quotient from subparagraph (i)
20 by the average daily membership of the eligible school
21 entity during the 2004-2005 school year.

22 (iii) Multiplying the product from subparagraph (ii)
23 by the difference between the dollar value of funds
24 appropriated to the department for the educational
25 assistance program in the 2004-2005 fiscal year and the
26 dollar value of funds appropriated to the department for
27 the educational assistance program in the 2007-2008
28 fiscal year.

29 (iv) Dividing the product from subparagraph (iii) by
30 the sum of the products of subparagraph (ii) for all

1 eligible school entities that qualify for grant funds
2 under this paragraph.

3 (2) The amount of educational assistance funding
4 provided under this article shall be limited to funds
5 appropriated for this purpose.

6 (h) Use of educational assistance funds for tutoring.--An
7 eligible school entity that receives educational assistance
8 funding under subsection (g) for the purpose of offering
9 tutoring may use such funds to:

10 (1) Enter into contracts with a provider approved under
11 section 1505-C.

12 (2) Offer tutoring services directly to any student
13 eligible for tutoring services under subsection [(b)] (b.1).

14 (h.1) Redistribution of funds.--For the 2004-2005 school
15 year and each school year thereafter, an eligible school entity
16 that chooses not to receive educational assistance funding under
17 subsection (g) shall forfeit the right to such funds. Such funds
18 shall then be distributed on a pro rata basis among all other
19 eligible school entities choosing to receive educational
20 assistance funding under subsection (g).

21 (i) Construction.--Nothing in this section shall be
22 construed to limit the eligibility of a grant recipient to
23 receive a grant under section 1507-C.

24 Section 4. This act shall take effect July 1, 2008, or
25 immediately, whichever is later.