

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 240 Session of 2011

INTRODUCED BY CHRISTIANA, BOYD, COX, GINGRICH, MARSHALL,  
METCALFE, MUSTIO, ROAE, SCHRODER AND SWANGER,  
JANUARY 26, 2011

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 26, 2011

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," providing for open enrollment  
6 program.

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

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
10 as the Public School Code of 1949, is amended by adding an  
11 article to read:

12 ARTICLE XIII-B

13 OPEN ENROLLMENT PROGRAM

14 Section 1301-B. Definitions.

15 The following words and phrases when used in this article  
16 shall have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Board of school directors." The elected board of directors  
19 of a public school district.

1 "Department." The Department of Education of the  
2 Commonwealth.

3 "Nonresident school district." A school district included in  
4 the open enrollment program that is not the school district of  
5 residence.

6 "Open enrollment program" or "program." A program allowing  
7 students to enroll in a public school district of their  
8 choosing.

9 "Receiving school district." The school district a child  
10 attends through the open enrollment program after the  
11 application for enrollment is approved.

12 "School district." The term includes any public school  
13 district in this Commonwealth.

14 "School district of residence." The school district in this  
15 Commonwealth in which the parents or guardians of a child and  
16 the child reside.

17 "Secretary." The Secretary of Education of the Commonwealth.  
18 Section 1302-B. Open enrollment program.

19 (a) Establishment.--An open enrollment program is  
20 established in this Commonwealth to enable any pupil to attend a  
21 public school in a nonresident school district, subject to the  
22 limitations of this article. For the 2012-2013 school year, and  
23 each school year thereafter, a parent or guardian residing in a  
24 public school district may enroll his or her child in a public  
25 school in another school district in the manner provided in this  
26 section.

27 (b) Eligibility.--For a parent or guardian to enroll his or  
28 her child in a public school in a nonresident school district,  
29 the following shall be required:

30 (1) (i) the child must be enrolled in and attending a

1 public school located in this Commonwealth; or

2 (ii) the parent or guardian has registered, or is  
3 preparing to register, the child for kindergarten or  
4 first grade.

5 (2) If a child who is requesting a transfer through the  
6 open enrollment program has been suspended or expelled from  
7 his or her school district of residence, the child shall not  
8 be permitted to enroll in a receiving school district until  
9 the child has been reinstated in the school district of  
10 residence. Such suspension or expulsion shall have no bearing  
11 on the acceptance or denial of the open enrollment  
12 application by other school districts.

13 Section 1303-B. Application procedures.

14 (a) General rule.--By January 15 of the preceding school  
15 year, the parent or guardian of a student must send notification  
16 to the school district of residence and the nonresident school  
17 district, on an application or form prescribed by the  
18 department, that the parent or guardian intends to enroll the  
19 child in a public school in a school district other than the  
20 school district of residence.

21 (b) Exception for good cause.--

22 (1) If the parent or guardian fails to send notification  
23 by January 15 as specified in this section, the parent or  
24 guardian may request a transfer until the last day in July of  
25 that calendar year, on an application or form prescribed by  
26 the department, by sending notification to the school  
27 district of residence and the receiving school district, with  
28 the requirement that the parent or guardian demonstrate that  
29 there was good cause for the failure to meet the deadline  
30 specified by this article.

1       (2) For the purpose of this subsection, "good cause"  
2       shall mean:

3           (i) a change in the child's residence due to a  
4           change in family residence, a change in the marital  
5           status of the child's parent or guardian, a guardianship  
6           or custody proceeding, placement in foster care, adoption  
7           or participation in a substance abuse or mental health  
8           treatment program;

9           (ii) a change in the accreditation status of the  
10          child's school district of residence by the State Board  
11          of Education or the revocation of the charter of a  
12          charter school attended by the child; or

13          (iii) the school district of residence is closed.

14       (c) Return to school district of residence.--If a parent or  
15       guardian is dissatisfied with the enrollment of the child in a  
16       nonresident school district, he or she may return the child to  
17       the school district of residence upon notification to both the  
18       school district of residence and the nonresident school  
19       district.

20       Section 1304-B. Duties of school districts.

21       (a) Policy.--

22           (1) The superintendent of each school district eligible  
23           for participation in the open enrollment program shall  
24           develop a policy for appropriate class size and student-  
25           teacher ratios for each grade level. The policy may allow for  
26           a designated number of vacant spaces to accommodate potential  
27           students who may reside in the school district.

28           (2) No board of school directors shall be required to  
29           enroll students through the open enrollment program if such  
30           enrollment would exceed the maximum class size and student-

1 teacher ratio identified by the superintendent of the school  
2 district for each grade level.

3 (3) Nothing in this subsection shall be construed to  
4 require a school district that has a policy that meets the  
5 requirements of this subsection to develop a new policy.

6 (b) Receiving school districts.--

7 (1) When a student is accepted into a receiving school  
8 district, the receiving school district shall review the  
9 student's coursework, Pennsylvania State System of Assessment  
10 (PSSA) scores, other State assessment scores, transcript and  
11 any other academic data from the student's school district of  
12 residence in order to determine grade level placement and the  
13 academic progress made towards a diploma.

14 (2) The receiving school district shall provide the  
15 student and parent or guardian with a written explanation,  
16 including, but not limited to, the enrollment, credit  
17 issuance, and grade level placement determined by the school  
18 district within 30 calendar days of receipt of an open  
19 enrollment program application.

20 Section 1305-B. Duties of boards of school directors.

21 (a) Policy.--

22 (1) The board of school directors of each school  
23 district in this Commonwealth shall adopt a policy that  
24 delineates specific standards for the acceptance or rejection  
25 of open enrollment applications. Standards may include the  
26 capacity of a school building, grade level or class as  
27 determined by the superintendent of each school district.  
28 Standards may not include previous academic achievement,  
29 athletic or extracurricular ability, disabling conditions,  
30 proficiency in the English language, previous disciplinary

proceedings or the student's school district of residence.

(b) Approval of application.--

(1) An application for open enrollment may be approved at any time by the receiving school district. If the application is approved, the board of school directors of the receiving school district shall notify the parent or guardian and the school district of residence within five days.

(2) The application for open enrollment may be withdrawn by the parent or guardian at any time prior to the commencement of the school year.

(c) Admissions process.--If a school district does not have sufficient capacity to enroll all students who submit a timely application, the school district shall institute an admissions process to ensure all applicants an equal chance of admission as required in subsection (a), except that a school district may give preference for admission to siblings of children who are already enrolled in the school district under this section.

(d) Limitation.--The board of school directors may not reject an application for open enrollment if the maximum class size for the grade level requested by the nonresident student applying for open enrollment, as determined by the school district pursuant to section 1304-B, has not been reached.

(e) Recordkeeping.--The board of school directors in a school district shall maintain accurate records on the following:

(1) The number of open enrollment applications received by students wishing to enroll in the school districts.

(2) The number of students requesting to transfer out of the school district through the open enrollment program.

(3) The number of students accepted into and enrolled in

1 the school district.

2 (4) The number of students denied acceptance and  
3 enrollment into the school district and the reasons for the  
4 denial.

5 Section 1306-B. Duties of the department.

6 (a) Application.--The department shall develop a standard  
7 open enrollment application or form to be used by all students  
8 wishing to apply for open enrollment in a nonresident school  
9 district pursuant to section 1303-B.

10 (b) Contents of application.--The form developed by the  
11 department shall contain information, including, but not limited  
12 to, the following:

13 (1) Parent or guardian and student information,  
14 including full names, address and contact information.

15 (2) The school district of residence and reason for the  
16 open enrollment request.

17 (3) The requested nonresident school district, including  
18 top three preferences for school buildings within the  
19 nonresident school district and the grade level of  
20 enrollment.

21 (4) A section related to current enrollment status of  
22 the student, including whether or not the student is  
23 currently expelled or suspended by the school district of  
24 residence.

25 (5) A section to be completed by the nonresident school  
26 district sought by the applicant that includes information  
27 about whether or not the application is approved and reasons  
28 for disapproval, if applicable.

29 (6) An information sheet describing application  
30 procedures and eligibility requirements for the open

1 enrollment program.

2 Section 1307-B. Students with Individualized Education Plans  
3 (IEP).

4 (a) General rule.--If an application for the open enrollment  
5 program is for a child requiring special education  
6 accommodations, the application shall only be approved if the  
7 receiving school district IEP team verifies the following:

8 (1) The receiving school district operates a special  
9 education program that is appropriate to meet the needs of  
10 the child requesting a transfer through an open enrollment  
11 application.

12 (2) The child's enrollment in the receiving school  
13 district's special education program would not cause the  
14 class size for the program to exceed the maximum class size  
15 established in State regulations or Federal guidelines for  
16 such a program.

17 (b) Initial planning session.--If a child requests a  
18 transfer out of his or her school district of residence through  
19 an open enrollment application, a member of the IEP team in the  
20 school district of residence shall take part in the initial  
21 planning session or sessions of the IEP team in the receiving  
22 school district to ensure continuity of services for the child.

23 Section 1308-B. Funding.

24 (a) Basic education funding.--For purposes of basic  
25 education funding, the receiving school district shall receive  
26 for each student enrolled no less than the budgeted total  
27 expenditure per average daily membership of the prior school  
28 year, as defined in section 2501(20). This amount shall be paid  
29 by the school district of residence of the student requesting  
30 transfer through the open enrollment program.



1 (b) Special education funding.--For special education  
2 students, the board of school directors of the school district  
3 of residence shall pay to the receiving school district the  
4 actual costs incurred in providing the appropriate special  
5 education.

6 (c) Payments between school districts.--

7 (1) Payments shall be made to the receiving school  
8 district in 12 equal monthly payments, by the fifth day of  
9 each month, within the operating school year.

10 (2) A student enrolled in a receiving school district  
11 through the open enrollment program shall be included in the  
12 average daily membership of the student's school district of  
13 residence for the purpose of providing basic education  
14 funding payments and special education funding pursuant to  
15 Article XXV.

16 (3) If a school district fails to make a payment to a  
17 receiving school as prescribed in this subsection, the  
18 secretary shall deduct the estimated amount, as documented by  
19 the receiving school, from any and all State payments made to  
20 the school district of residence after receipt of  
21 documentation from the receiving school.

22 (d) Inaccurate deductions.--

23 (1) Within 30 days after the secretary makes the  
24 deduction described in subsection (c), the school district of  
25 residence may notify the secretary that the deduction made  
26 from State payments to the school district of residence under  
27 this section is inaccurate.

28 (2) The secretary shall provide the school district of  
29 residence with an opportunity to be heard concerning whether  
30 the receiving school documented that its students were

1 enrolled in the receiving school, the period of time during  
2 which each student was enrolled, the school district of  
3 residence of each student and whether the amounts deducted  
4 from the school district of residence were accurate.

5 Section 1309-B. Transportation.

6 (a) General rule.--The parent or guardian of a child shall  
7 bear the responsibility of transporting the pupil to a receiving  
8 school district without reimbursement. If requested by the  
9 parent or guardian of the child, the receiving school district  
10 shall provide transportation within the school district. It  
11 shall be the responsibility of the parent or guardian to provide  
12 transportation for the child to and from a point on an existing  
13 school bus route operated by the receiving school district, as  
14 long as the maximum capacity on a given bus does not exceed the  
15 maximum allowed by law.

16 (b) Construction.--Nothing in this section shall be  
17 construed to prohibit a school district from voluntarily  
18 providing such transportation.

19 Section 1310-B. Credits toward graduation.

20 A receiving school district shall accept credits toward  
21 graduation that were awarded by another school district. The  
22 receiving school district shall grant a diploma to a nonresident  
23 student if the student meets its requirements for graduation.

24 Section 1311-B. Assessments.

25 Scores on the Pennsylvania State System of Assessments (PSSA)  
26 and other required State assessments by students enrolled in a  
27 receiving school district other than their school district of  
28 residence through the open enrollment program shall be treated  
29 in the same manner as the scores of resident students in the  
30 receiving school district.

1 Section 1312-B. Desegregation orders.

2 The local board of school directors of a school district  
3 which is operating under a desegregation plan approved by the  
4 Pennsylvania Human Relations Commission or a desegregation order  
5 by a Federal or State court shall accept or reject each  
6 individual application in a manner that will enable compliance  
7 with its desegregation plan.

8 Section 1313-B. Athletics.

9 Participation in interscholastic athletics by students  
10 enrolled in a receiving school district other than their school  
11 district of residence through the open enrollment program shall  
12 be governed by the Pennsylvania Interscholastic Athletic  
13 Association's requirements and eligibility standards and  
14 criteria.

15 Section 2. This act shall take effect in 60 days.