

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1057 Session of
2024

INTRODUCED BY A. WILLIAMS AND PENNYCUICK, FEBRUARY 12, 2024

REFERRED TO EDUCATION, FEBRUARY 12, 2024

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 the Educational Freedom
6 Act Program; and establishing the Educational Freedom Act
7 Fund and educational freedom accounts.

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

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

13 ARTICLE XIII-F

14 EDUCATIONAL FREEDOM ACT PROGRAM

15 Section 1301-F. Scope of article.

16 This article relates to the Educational Freedom Act Program.

17 Section 1302-F. Definitions.

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

21 "Applicant." A parent who applies for participation in the

1 program under section 1304-F on behalf of an eligible student.

2 "Attendance boundary." The term shall mean the same as
3 defined under section 2002-B.

4 "Department." The Department of Education of the
5 Commonwealth.

6 "Educational freedom account." A spending account
7 established and administered by the Treasury Department and
8 directed by a parent for a scholarship recipient that may be
9 used for tuition, school-related fees and special education
10 services fees to attend a participating nonpublic school.

11 "Eligible student." A school-age child who:

12 (1) Is a resident of this Commonwealth.

13 (2) Has not received a high school diploma.

14 (3) Resides, as determined under section 1302, within
15 the attendance boundary of a low-achieving school or resided,
16 as determined under section 1302, within the attendance
17 boundary of a low-achieving school at the time the Treasury
18 Department received written confirmation that the child
19 accepted an offer of enrollment under section 1304-F.

20 (4) Lives in a household with a household income below
21 250% of the Federal poverty guidelines or lived in a
22 household with a household income below 250% of the Federal
23 poverty guidelines at the time the Treasury Department
24 received written confirmation that the child accepted an
25 offer of enrollment under section 1304-F.

26 (5) Satisfies one of the following:

27 (i) Attended a public school in this Commonwealth in
28 the preceding school year.

29 (ii) Received a scholarship from the program in the
30 preceding school year.

1 (iii) Will attend kindergarten for the first time in
2 the next school year.

3 "Fund." The Educational Freedom Act Fund established under
4 section 1308-F.

5 "Kindergarten." A one-year formal educational program,
6 whether part time or full time, that occurs during the school
7 year immediately prior to first grade.

8 "Low-achieving school." As defined in section 2002-B.

9 "Nonpublic school." A nonprofit school, other than a public
10 school, located in this Commonwealth where a resident of this
11 Commonwealth may legally fulfill the compulsory attendance
12 requirements of this act.

13 "Parent." An individual who is a resident of this
14 Commonwealth and:

15 (1) has legal custody or guardianship of an eligible
16 student; or

17 (2) keeps in the individual's home an eligible student
18 and supports the student gratis as if the student were a
19 lineal descendant of the individual.

20 "Participating nonpublic school." A nonpublic school
21 offering a program of instruction for kindergarten through grade
22 12, or a combination of grades, that notifies the Treasury
23 Department of the nonpublic school's desire to participate in
24 the program and provides certification to the Treasury
25 Department that the nonpublic school meets the criteria under
26 section 1311-F.

27 "Program." The Educational Freedom Act Program established
28 under section 1303-F.

29 "Public school." A school operated by a school district,
30 intermediate unit, area career and technical school, charter

1 school, regional charter school or cyber charter school.

2 "Resident school district." The school district in which an
3 eligible student resides.

4 "Scholarship." A scholarship that is awarded to an eligible
5 student under the program.

6 "Scholarship recipient." An eligible student that is awarded
7 a scholarship under the program.

8 "School-age child." A child enrolling in kindergarten
9 through grade 12.

10 "School-related fee." A fee charged by a participating
11 nonpublic school to all students for books, instructional
12 materials, technology equipment and services, uniforms,
13 activities and concurrent enrollment programs under Article XVI-
14 B.

15 "School year." A school term as defined in section 102.

16 "Special education services fee." A fee charged by a
17 participating nonpublic school for special education services
18 for a student with special needs as agreed to by the parent and
19 the participating nonpublic school.

20 "Student with special needs." A child who is subject to an
21 individualized education program under 20 U.S.C. Ch. 33
22 (relating to education of individuals with disabilities) and 22
23 Pa. Code Ch. 14 (relating to special education services and
24 programs).

25 "Treasury Department." The Treasury Department of the
26 Commonwealth.

27 Section 1303-F. Educational Freedom Act Program.

28 (a) Establishment.--Beginning with the 2024-2025 school
29 year, the Educational Freedom Act Program is established as a
30 program in the Treasury Department to provide scholarships to

1 help eligible students pay tuition, school-related fees and
2 special education services fees for attendance at a
3 participating nonpublic school.

4 (b) Notice to parents.--

5 (1) Within 15 days of receipt of a notice under section
6 2010-B and each year thereafter, a school district with at
7 least one school designated as a low-achieving school shall
8 notify the parent of a student who is attending or residing
9 within the attendance boundary of a low-achieving school
10 during the school year of the school's designation.

11 (2) The notice shall be in a form provided by the
12 Treasury Department, in consultation with the department, and
13 shall provide the following information regarding the
14 program:

15 (i) A description of the program.

16 (ii) Instructions for obtaining information about
17 applying for a scholarship under the program.

18 (iii) A list of schools in the school district that
19 have been designated as low-achieving schools.

20 (iv) Notice of the parent's responsibilities
21 regarding application to a participating nonpublic school
22 if the parent seeks to enroll an eligible student in a
23 participating nonpublic school.

24 (3) The notice shall be posted on the school district's
25 publicly accessible Internet website.

26 (c) Notice to Treasury Department.--A school district
27 required to submit a notice to parents under subsection (b)
28 shall provide the Treasury Department with a list of students
29 whose parents were provided the notice. The notification shall
30 be made in a manner and form established by the Treasury

1 Department.

2 Section 1304-F. Application.

3 (a) Application form.--By March 1, 2024, the Treasury
4 Department shall develop an application form that can be
5 accessed from and submitted electronically on the Treasury
6 Department's publicly accessible Internet website.

7 (b) Application and approval process.--

8 (1) By April 1, 2024, and by April 1 of each year
9 thereafter, the applicant may apply to the Treasury
10 Department for a scholarship for the following school year
11 according to guidelines developed by the Treasury Department
12 under section 1309-F. An application shall be approved by the
13 Treasury Department if the student meets the eligibility
14 requirements of this article.

15 (2) A renewal application shall be approved by the
16 Treasury Department if the student meets the eligibility
17 requirements of this article, notwithstanding the residence
18 and income criteria specified in paragraphs (3) and (4) of
19 the definition of "eligible student" in section 1302-F.

20 (3) By May 1, 2024, and by May 1 of each year
21 thereafter, the Treasury Department shall notify the
22 applicant whether a scholarship will be awarded for the
23 following school year.

24 (4) For the 2024-2025 school year, scholarships shall be
25 awarded on a first-come, first-served basis considering money
26 available in the fund.

27 (5) For the 2025-2026 school year and each school year
28 thereafter, priority for scholarships shall be given to prior
29 year scholarship recipients. New applicants shall be awarded
30 a scholarship on a first-come, first-served basis considering

1 money available in the fund.

2 (6) Upon notification by the Treasury Department that a
3 scholarship has been awarded, the applicant shall apply for
4 enrollment of the scholarship recipient directly to the
5 participating nonpublic school under an application procedure
6 developed by the participating nonpublic school.

7 (7) By June 1, 2024, and by June 1 each year thereafter,
8 a participating nonpublic school shall provide written
9 confirmation to the Treasury Department of scholarship
10 recipients who have accepted an offer of enrollment for the
11 following school year and provide the Treasury Department
12 with the amounts to be charged to the scholarship recipient
13 for tuition, school-related fees and special education
14 services fees. The notification shall be made in a manner and
15 form established by the Treasury Department.

16 (8) The Treasury Department may establish a waiting list
17 for eligible students with approved applications and who did
18 not receive awards due to availability of money in the fund
19 and if, after July 1, 2024, and by July 1 each year
20 thereafter, additional money is available in the fund for
21 scholarships, may award scholarships to the eligible students
22 on a first-come, first-served basis.

23 Section 1305-F. Agreement.

24 (a) Authorization.--Upon receipt of written confirmation
25 that the scholarship recipient has accepted an offer of
26 enrollment under section 1304-F, the Treasury Department shall
27 enter into or renew an agreement with the applicant. The
28 agreement shall provide the following:

29 (1) The scholarship recipient shall enroll in a
30 participating nonpublic school for the school year for which

1 the agreement applies.

2 (2) A certain sum of money shall be deposited into an
3 educational freedom account on behalf of the scholarship
4 recipient.

5 (3) The money in the educational freedom account may be
6 expended only as authorized under this article.

7 (4) The parent shall notify the Treasury Department if
8 the scholarship recipient no longer resides in this
9 Commonwealth or withdraws or is forced to withdraw from the
10 participating nonpublic school within 15 days of the change
11 of residency or withdrawal.

12 (b) Term of agreement.--Except as otherwise provided under
13 this article, an agreement entered into under subsection (a)
14 shall be valid for one school year.

15 (c) Termination.--

16 (1) An agreement entered into under subsection (a) may
17 be terminated early by the parent for any reason.

18 (2) An agreement entered into under subsection (a) shall
19 be terminated by the Treasury Department for the following
20 reasons:

21 (i) The parent is found to have engaged in
22 fraudulent misuse of the educational freedom account. In
23 such case, the scholarship recipient shall be ineligible
24 for future participation in the program. The parent may
25 appeal the Treasury Department's decision regarding
26 termination and student eligibility within 30 days of
27 issuance of the decision. The appeal shall be governed by
28 2 Pa.C.S. Chs. 1 (relating to general provisions), 5
29 (relating to practice and procedure) and 7 (relating to
30 judicial review).

1 (ii) The scholarship recipient no longer resides in
2 this Commonwealth.

3 (iii) The scholarship recipient withdraws or is
4 forced to withdraw from a participating nonpublic school
5 prior to the completion of the school year.

6 (3) If an agreement is terminated early under this
7 subsection, the following shall apply:

8 (i) All available money in the educational freedom
9 account shall revert to the fund.

10 (ii) The participating nonpublic school shall repay
11 to the State Treasury for deposit into the fund the full
12 amount of the scholarship payment, reduced on a pro rata
13 basis by the tuition, school related fees and special
14 education services fees owed for the portion of the
15 school year in which the scholarship recipient was
16 enrolled.

17 (iii) The participating nonpublic school may not
18 require a parent to reimburse the participating nonpublic
19 school for the amount of the scholarship returned to the
20 State Treasury.

21 (d) Renewal.--An agreement entered into under subsection (a)
22 may be renewed for each school year for the same student.

23 (e) Multiple agreements.--A parent may enter into separate
24 agreements under subsection (a) for each child of the parent who
25 is a scholarship recipient.

26 (f) Explanation.--Upon entering into an agreement under
27 subsection (a) or renewing an agreement under subsection (d),
28 the Treasury Department shall provide the parent with a written
29 explanation of the authorized uses of the money in the
30 educational freedom account and, a notice that students with

disabilities who participate in the program are "parentally placed private school children with disabilities" under 20 U.S.C. § 1412 (relating to state eligibility) and an explanation of the rights of parentally placed private school children under 20 U.S.C. Ch. 33 (relating to education of individuals with disabilities) and any applicable State law and regulation.
Section 1306-F. Educational freedom accounts.

(a) Establishment.--If an agreement is entered into under section 1305-F, the Treasury Department shall establish an educational freedom account for the scholarship recipient. The educational freedom account shall be administered by the Treasury Department in accordance with this article.

(b) Deposit.--

(1) Upon establishment of an educational freedom account, the Treasury Department shall deposit a sum of money for the applicable school year in the educational freedom account for the scholarship recipient in accordance with this section.

(2) For the 2024-2025 school year, the sum shall be as follows:

(i) for a student in half-day kindergarten, \$2,500;

(ii) for a student in full-day kindergarten through grade eight, \$5,000;

(iii) for a student in grades 9 through 12, \$10,000;

or

(iv) for a student with special needs regardless of grade level, \$15,000.

(3) Beginning with the 2025-2026 school year, and each school year thereafter, the amounts in paragraph (2) shall be increased by the greater of the average percentage increase

1 in the index as defined in section 302 of the act of June 27,
2 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer
3 Relief Act, for all school districts for the prior school
4 year and the percentage increase in the appropriation for
5 basic education for the prior fiscal year. The Treasury
6 Department shall calculate the increases on an annual basis
7 and shall submit a notice of the increases to the Legislative
8 Reference Bureau for publication in the next available issue
9 of the Pennsylvania Bulletin.

10 (c) Installments.--The Treasury Department shall deposit the
11 money for each scholarship into an educational freedom account
12 on a schedule determined by the Treasury Department in
13 consultation with the department.

14 (d) Payments to participating nonpublic schools.--A parent
15 may direct payments from the educational freedom account to a
16 participating nonpublic school on behalf of the scholarship
17 recipient via an electronic money transfer system or other
18 method approved by the Treasury Department under section 1309-F.
19 Section 1307-F. Qualified education expenses.

20 (a) General rule.--Money deposited into an educational
21 freedom account may be used only to pay for the following
22 qualified expenses incurred by or associated with the
23 scholarship recipient:

24 (1) Tuition required by a participating nonpublic
25 school.

26 (2) School-related fees.

27 (3) Special education services fees.

28 (b) Prohibition.--A participating nonpublic school that
29 receives a payment for qualified education expenses authorized
30 under subsection (a) may not refund, rebate or otherwise

1 directly share any portion of the payment with the parent who
2 made the payment.

3 (c) Tax consequences and status of awards.--

4 (1) The money in a educational freedom account is not
5 taxable income to the parent or scholarship recipient under
6 State law.

7 (2) An award made to, or payment from, a educational
8 freedom account may not be construed to be an appropriation
9 or financial assistance to a participating nonpublic school.

10 Section 1308-F. Educational Freedom Act Fund.

11 (a) Establishment.--The Educational Freedom Act Fund is
12 established in the State Treasury. All interest and earnings
13 received from investment or deposit of the money in the fund
14 shall be paid into the fund and used for scholarships. Any
15 unexpended money and interest or earnings on the money in the
16 fund may not be transferred or revert to the General Fund but
17 shall remain in the fund.

18 (b) Deposits.--Deposits in the fund shall consist of the
19 following:

20 (1) Money that is appropriated, given, granted or
21 donated by the Commonwealth or any other government or
22 private agency or person for the purpose established under
23 this article.

24 (2) \$300,000,000 transferred from funds received under
25 the authority of Article III of the act of March 4, 1971
26 (P.L.6, No.2), known as the Tax Reform Code of 1971. This
27 transfer shall occur no later than 15 days after the
28 effective date of this paragraph and each August 1
29 thereafter.

30 (c) Continuing appropriation.--The money in the fund is

1 appropriated on a continuing basis to the Treasury Department
2 for scholarships.

3 Section 1309-F. Duties of Treasury Department.

4 (a) General rule.--The Treasury Department shall:

5 (1) Develop guidelines, in consultation with the
6 department, as necessary for the administration of this
7 article.

8 (2) Make payments to educational freedom accounts as
9 provided in this article.

10 (3) Develop a system that enables a parent to direct
11 payment to a participating nonpublic school in accordance
12 with this article.

13 (4) Develop a process by which a nonpublic school may
14 inform the Treasury Department of the nonpublic school's
15 interest to participate in the program and demonstrate
16 compliance with the requirements of this article.

17 (5) Ensure that eligible students and their parents are
18 informed annually of the participating nonpublic schools in
19 the program by posting a list of participating nonpublic
20 schools on the Treasury Department's publicly accessible
21 Internet website by April 1, 2024, and by April 1 of each
22 year thereafter.

23 (6) At such time and in such form and manner as may be
24 directed by the Treasury Department, request and receive
25 information and data from a public school, resident school
26 district, participating nonpublic school or applicant
27 determined to be necessary by the Treasury Department to
28 administer this article.

29 (b) Third-party administration.--The Treasury Department may
30 contract with a third party to administer the program.

1 (c) Contracting.--

2 (1) Notwithstanding any provision of 62 Pa.C.S. Pt. I
3 (relating to Commonwealth Procurement Code), to the contrary
4 and in order to facilitate the prompt implementation of this
5 article, a contract may be awarded for a supply or service
6 without competition if the Treasury Department determines in
7 writing that the contract is necessary for the implementation
8 of any provision of this article and is in the best interest
9 of the Commonwealth. The Treasury Department shall provide
10 and make publicly available a written justification of any
11 procurement under this section.

12 (2) Paragraph (1) shall expire no later than two years
13 following the issuance of the procurement under paragraph
14 (1). Procurements issued after this period shall be issued as
15 provided by law.

16 (d) Regulations.--

17 (1) In order to facilitate the prompt implementation of
18 this chapter, regulations determined to be necessary and
19 promulgated by the Treasury Department shall be deemed
20 temporary regulations and shall expire no later than two
21 years following the publication of temporary regulations. The
22 Treasury Department may promulgate temporary regulations not
23 subject to:

24 (i) Section 612 of the act of April 9, 1929
25 (P.L.177, No.175), known as The Administrative Code of
26 1929.

27 (ii) Sections 201, 202, 203, 204 and 205 of the act
28 of July 31, 1968 (P.L.769, No.240), referred to as the
29 Commonwealth Documents Law.

30 (iii) Section 204(b) of the act of October 15, 1980

1 (P.L.950, No.164), known as the Commonwealth Attorneys
2 Act.

3 (iv) The act of June 25, 1982 (P.L.633, No.181),
4 known as the Regulatory Review Act.

5 (2) The authority provided to the Treasury Department to
6 adopt temporary regulations in this subsection shall expire
7 no later than two years following the publication of the
8 temporary regulations. Regulations adopted after this period
9 shall be promulgated as provided by law.

10 Section 1310-F. Duties of Auditor General.

11 The Auditor General may:

12 (1) Conduct a random audit of educational freedom
13 accounts.

14 (2) Refer cases of suspected fraudulent misuse of
15 educational freedom accounts to the Inspector General for
16 investigation. If the investigation results in a finding that
17 risers to the level of criminal activity, the Inspector
18 General shall refer the matter to the appropriate law
19 enforcement agency for prosecution.

20 (3) Notify the Treasury Department of cases of suspected
21 fraudulent misuse that are referred to the Inspector General.

22 Section 1311-F. Duties of participating nonpublic schools.

23 (a) Notification requirement.--A nonpublic school that
24 desires to participate in the program shall notify the Treasury
25 Department by a date and in a manner and form established by the
26 Treasury Department. The notification shall include
27 certification by the nonpublic school that:

28 (1) The nonpublic school is a nonprofit entity exempt
29 from Federal taxation under 26 U.S.C. § 501(c)(3) (relating
30 to exemption from tax on corporations, certain trusts, etc.).

1 (2) The nonpublic school complies with the
2 nondiscrimination policies specified in 42 U.S.C. § 1981
3 (relating to equal rights under the law).

4 (3) The nonpublic school complies with the provisions of
5 sections 111 and 111.1.

6 (b) Prohibition.--A participating nonpublic school may not
7 charge an scholarship recipient a tuition rate, student-related
8 fees or special education services fees that are higher than the
9 rates the participating nonpublic school would have charged to a
10 non-scholarship-recipient student.

11 (c) Reporting requirements.--

12 (1) Each participating nonpublic school shall report in
13 a manner and form determined by the Treasury Department, in
14 consultation with the department, information regarding
15 scholarship recipients enrolled in the participating
16 nonpublic school as follows:

17 (i) Enrollment and disenrollment.

18 (ii) Regular attendance.

19 (iii) Chronic absenteeism.

20 (iv) Academic progress as measured by advancement to
21 the next grade level.

22 (v) Indication of graduation.

23 (vi) Concurrent or dual enrollment course credits.

24 (2) The Treasury Department shall report the information
25 regularly to the department on a schedule agreed to by the
26 Treasury Department and the department.

27 (d) Construction.--

28 (1) For purposes of this article, a participating
29 nonpublic school shall be autonomous and is not an agent of
30 the Treasury Department, the department or the Commonwealth.

1 (2) Neither the Treasury Department, the department nor
2 other State agency may regulate the educational program of a
3 participating nonpublic school that accepts money from a
4 scholarship recipient beyond what is necessary to administer
5 the program.

6 Section 1312-F. Bar of certain participating nonpublic schools.

7 (a) General rule.--The Treasury Department may bar a
8 nonpublic school from participation in the program if Treasury
9 Department establishes that the nonpublic school has:

10 (1) routinely failed to comply with the requirements
11 established in section 1311-F; or

12 (2) failed to provide a scholarship recipient with the
13 educational services funded by the recipient's educational
14 freedom account.

15 (b) Notice.--If the Treasury Department bars a nonpublic
16 school from participation in the program, the Treasury
17 Department shall, after any appeal is concluded and the Treasury
18 Department's decision is upheld under subsection (c), post the
19 decision on the Treasury Department's publicly accessible
20 Internet website.

21 (c) Appeal.--A nonpublic school may appeal the Treasury
22 Department's decision to bar its participation in the program
23 within 30 days of issuance of the decision. The appeal shall be
24 governed by 2 Pa.C.S. Chs. 1 (relating to general provisions), 5
25 (relating to practice and procedure) and 7 (relating to judicial
26 review).

27 Section 1313-F. Duties of resident school districts.

28 A resident school district shall provide a participating
29 nonpublic school that has admitted a scholarship recipient with
30 a complete copy of the scholarship recipient's school record

within 10 days of the receipt of notice from the participating
nonpublic school of the scholarship recipient's enrollment.
Section 1314-F. Report.

(a) Duty to prepare and submit.--Beginning January 31, 2025,
and each January 31 thereafter, the Treasury Department, in
consultation with the department, shall prepare and submit to
the General Assembly an annual report on the program.

(b) Contents.--The report shall include the following:

(1) The total number of applications received for the
program.

(2) The total number of applications received for the
program, by resident school district.

(3) The total number of applications approved for the
program.

(4) The total number of applications approved for the
program, by resident school district.

(5) The total number of educational freedom accounts
terminated early.

(6) The total number of educational freedom accounts
investigated for fraud by the Inspector General.

(7) The total number of educational freedom scholarships
awarded to students attending half-day kindergarten.

(8) The total number of educational freedom scholarships
awarded to students attending full-day kindergarten through
grade eight.

(9) The total number of scholarships awarded to students
attending grades 9 through 12.

(10) The total dollar amount of educational freedom
scholarships awarded.

(11) The total number of applications not approved due

1 to lack of funding.

2 (12) The cost of administration of the program.

3 (13) Other information the Treasury Department deems
4 helpful to the General Assembly.

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