

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1068 Session of
1987INTRODUCED BY HESS, REIBMAN, ARMSTRONG, MADIGAN, SHUMAKER,
REGOLI AND ROCKS, OCTOBER 5, 1987

SENATOR HESS, EDUCATION, AS AMENDED, OCTOBER 19, 1987

AN ACT

1 Defining and providing for the licensing and regulation of
2 private ACADEMIC schools; ~~establishing~~ REESTABLISHING the <—
3 State Board of Private Academic Schools; imposing penalties;
4 and making repeals.

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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Private
16 Academic Schools Act.

17 Section 2. Definitions.

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

21 ~~"Admissions representative." A person acting for a private~~ <—
22 ~~licensed school who, for a consideration, at locations off the~~
23 ~~premises of the school solicits or procures through an~~
24 ~~enrollment agreement an individual in this Commonwealth to~~
25 ~~enroll in a private licensed school.~~

26 "Annual." Twelve months from the date of initial licensure.

27 "Board." The State Board of Private Academic Schools.

28 "Department." The Department of Education of the
29 Commonwealth.

30 ~~"Enrollment agreement." A written contract between the~~ <—

1 ~~student and the private academic school.~~

2 "Private academic school" or "school." A school maintained,
3 or classes conducted, for the purpose of offering instruction
4 for a consideration, profit or tuition, to five or more pupils
5 at one and the same time, or to twenty-five or more pupils
6 during any school year, the purpose of which is to educate an
7 individual generally or specially or to prepare an individual
8 for more advanced study, and shall include all schools engaged
9 in such education, except private trade schools, private
10 business schools, private correspondence schools, private music
11 schools, private dance schools, private art schools, private
12 dramatic art schools, private schools of charm or poise, private
13 driver training schools, or any type of private school which is
14 nonacademic in character.

15 ~~"Registered school." The official designation for an out-of~~ <—
16 ~~State school which has met all the requirements of the board for~~
17 ~~approval to enroll Pennsylvania residents in its resident school~~
18 ~~or home study course.~~

19 "Secretary." The Secretary of Education of the Commonwealth.
20 Section 3. State Board of Private Academic Schools.

21 (a) Establishment of board.--There is hereby created within
22 the department a departmental administrative board to be known
23 as the State Board of Private Academic Schools. The board shall
24 consist of nine members, who shall be appointed by the
25 secretary. The composition of the board shall include at least
26 one parent of a student in a licensed academic school. The terms
27 of appointment shall be for three years.

28 (b) Quorum.--Five members of the board shall constitute a
29 quorum. The board shall select annually a chairperson from among
30 its members.

1 (c) Administrative support.--Administrative support for the
2 board shall be provided by the department in accordance with
3 section 214 of the act of April 9, 1929 (P.L.177, No.175), known
4 as The Administrative Code of 1929. The department shall
5 periodically consult with the board regarding its administrative
6 needs.

7 (d) Compensation and expenses.--Members of the board shall
8 receive \$60 per diem for each day actually devoted to work of
9 the board. The members shall be reimbursed for reasonable
10 travel, hotel and other necessary expenses incurred in the
11 performance of their duties in accordance with Commonwealth
12 regulations.

13 (e) Forfeiture of membership.--A member who fails to attend
14 three consecutive board meetings shall forfeit membership on the
15 board unless the secretary, upon written request from the
16 member, determines that the member shall be excused from a
17 meeting or meetings for reasons of illness or death of a family
18 member.

19 (f) Meetings and records.--The board shall meet at such
20 times and places as it shall determine is necessary for the
21 proper conduct of its work. Special meetings may be called by
22 the chairperson or at the request of a majority of the members
23 of the board dependent upon the availability of funds to cover
24 costs. Board records and administrative records for private
25 ~~licensed school~~ ACADEMIC SCHOOLS shall be maintained in <—
26 Harrisburg.

27 (g) Documents.--Certificates of licensure and other official
28 documents approved by the board shall be issued by the
29 department.

30 Section 4. Powers and duties of board.

1 (a) Licensure, policies, etc.--The board shall have the
2 power and its duty shall be to approve or disapprove the initial
3 and renewal licensure ~~or registry or both,~~ of schools; to <—
4 suspend or revoke the licensure ~~or registry, or both,~~ of <—
5 schools; ~~to approve or disapprove the licensing of admissions~~ <—
6 ~~representatives;~~ to establish qualifications for ~~instructors,~~ <—
7 ~~administrators and supervisors~~ TEACHERS, PROFESSIONAL STAFF AND <—
8 DIRECTORS; to adopt broad policies and principles and to
9 establish standards, rules and regulations. The regulations
10 shall provide for a method of school closure.

11 (b) Disposition of student records.--The board shall require
12 every applicant for initial or renewal licensure to provide a
13 written statement describing arrangements for disposition of
14 student records in the event of closure. It shall be the duty of
15 the board and the department to assist in the execution of the
16 arrangements when necessary. ~~Priority shall be given to plans~~ <—
17 ~~for retention of the records with existing private licensed~~
18 ~~schools in the same geographical area.~~

19 ~~(c) Statistical report. The board shall submit annually to~~
20 ~~the Education Committee of the Senate and the Education~~
21 ~~Committee of the House of Representatives a report containing~~
22 ~~statistical data on tuition rates and the percentage of students~~
23 ~~completing programs of study. Private licensed or registered~~
24 ~~schools shall submit this information to the department by~~
25 ~~September 30 of each year for the preceding academic year ending~~
26 ~~June 30.~~

27 ~~(e)~~ (C) Enforcement by department.--The regulations <—
28 promulgated by the board shall be enforced by the department.
29 The department may submit to individual experts for review,
30 programs and courses and financial statements proposed or

1 offered by a school.

2 Section 5. Optional licensing of private schools.

3 ~~A school which is not required to obtain a license may apply~~ <—
4 ~~for a license and, upon approval and issuance of the license,~~
5 ~~shall be subject to the provisions of this act. It may~~
6 ~~voluntarily surrender its license and revert to its original~~
7 ~~status.~~

8 LICENSING SHALL NOT APPLY TO COLLEGES OR UNIVERSITIES, TO <—
9 SCHOOLS MAINTAINED OR CLASSES CONDUCTED BY EMPLOYERS FOR THEIR
10 OWN EMPLOYEES WHERE NO FEE OR TUITION IS CHARGED, TO SCHOOLS OR
11 CLASSES OWNED OR OPERATED BY OR UNDER THE AUTHORITY OF BONA FIDE
12 RELIGIOUS INSTITUTIONS OR BY THE COMMONWEALTH OR ANY POLITICAL
13 SUBDIVISION THEREOF, TO SCHOOLS FOR THE BLIND, DEAF AND DUMB
14 RECEIVING COMMONWEALTH APPROPRIATIONS, OR TO SCHOOLS ACCREDITED
15 BY ACCREDITING ASSOCIATIONS, APPROVED BY THE STATE BOARD OF
16 EDUCATION, BUT SUCH SCHOOLS MAY CHOOSE TO APPLY FOR A LICENSE
17 AND, UPON APPROVAL AND ISSUANCE THEREOF, SHALL BE SUBJECT TO THE
18 PROVISIONS OF THIS ACT.

19 Section 6. Mandatory licensing of private academic schools.~~and~~ <—
20 ~~admissions representatives.~~

21 A private academic school requiring licensure shall not
22 operate within this Commonwealth unless the school has obtained
23 from the board a license issued in the prescribed manner and
24 form.

25 Section 7. Application for license.

26 (a) General rule.--Before any license is issued to a private
27 ACADEMIC school, a verified application shall be made, in <—
28 writing, to the board on a form prepared and furnished by the
29 department. The <—

30 (B) APPLICATION CONTENTS.--THE application shall require a <—

1 statement showing:

2 (1) The title or name and address of the school ~~or~~, <—
3 GRADES AND classes together with the name of the owners and
4 controlling officers.

5 (2) The ~~general and~~ specific fields of instruction which <—
6 will be offered and the purposes of such instruction.

7 (3) The place ~~or places~~ where instruction will be given. <—

8 (4) A specific listing of the equipment, INSTRUCTIONAL <—
9 MATERIALS and staff available for instruction in ~~each program~~ <—
10 THE SCHOOL. <—

11 (5) The maximum enrollment to be accommodated on
12 equipment available in each program.

13 (6) The qualifications of ~~instructors, administrators~~ <—
14 ~~and supervisors~~ TEACHERS, PROFESSIONAL STAFF AND DIRECTORS in <—
15 each program.

16 (7) Financial resources available to equip and maintain
17 the school.

18 (8) An agreement to abide by reasonable service and
19 business ethics prescribed by the board.

20 ~~(9) For relicensure, statistical data on tuition rates~~ <—
21 ~~and percentage of students completing programs of study.~~

22 ~~(10)~~ (9) Any additional information the board may deem <—
23 necessary to enable it to determine the adequacy of the
24 program of instruction, ~~the business integrity~~ and related <—
25 matters.

26 An application must be completed for board consideration.

27 ~~(b)~~ (C) Financial responsibility.--Each private academic <—
28 school shall demonstrate to the board that it has adequate
29 resources or forms of surety available for the purpose of
30 reimbursing unearned tuition due students whenever the licensed

1 or registered school ceases to operate. The form of financial
2 responsibility or surety established by the private licensed or
3 registered school shall be subject to approval by the board. The
4 board shall promulgate regulations under this act establishing
5 the levels and forms of financial responsibility or surety that
6 the private licensed or registered school is permitted to
7 establish. ~~Until such regulations take effect, the surety~~ <—
8 ~~requirements in existence on the effective date of this act~~
9 ~~shall continue to be enforced.~~

10 ~~(e)~~ (D) Licensing rules.--The board shall prescribe rules <—
11 and regulations for the licensing of admissions representatives.
12 Section 8. Issuance and renewal.

13 (a) General rule.--The department shall issue an original
14 license to the ~~application~~ APPLICANT if the board finds that the <—
15 application and the school ~~or class or admissions representative~~ <—
16 for which a license is sought comply with the provisions of this
17 act and with the rules and regulations promulgated under this
18 act.

19 (b) Duration and renewal.--Each original school license
20 issued shall be effective from the date of issue until the ~~first~~ <—
21 ~~day~~ SAME DATE of the month of original issue the following year <—
22 and shall be renewed annually thereafter on a form prepared and
23 furnished by the department.

24 (c) License not transferable.--Each private ~~licensed~~ <—
25 ACADEMIC school shall have a separate license which shall not be <—
26 transferable.

27 Section 9. Licenses restricted.

28 Any license issued to a private ACADEMIC school shall <—
29 restrict a private ~~licensed~~ ACADEMIC school to the program, <—
30 courses or classes specifically indicated in the application for

1 a license. A private ~~licensed~~ ACADEMIC school shall present a <—
2 required supplementary application for approval of CHANGE OF <—
3 LOCATION, additional programs, courses or ~~classes~~ GRADES in <—
4 which it ~~desired~~ DESIRES to offer instruction during the <—
5 effective period of its license.

6 Section 10. License fees.

7 (a) General rule.--The board shall ~~set~~ ADOPT REGULATIONS <—
8 ESTABLISHING a fee schedule for the original school license and
9 the annual school license renewal. Those fees shall be based
10 upon enrollment criteria AND CATEGORY OF LICENSE. <—

11 (b) Disposition of fees.--License fees shall be placed in
12 the General Fund.

13 (c) Fee not refundable.--If a license is denied, suspended
14 or revoked, the license fee shall not be refunded. If the board
15 determines that a license is not required, the license fee may
16 be refunded.

17 Section 11. Directory of private academic schools.

18 The department shall maintain a list of private academic
19 schools which shall be available to the public.

20 Section 12. Requirements for licensure and operation.

21 (a) Inspection.--No private ACADEMIC school may be granted a <—
22 license or permitted to continue to operate under a granted
23 license unless it permits the board and its representatives to
24 inspect the school or classes and makes available to the board,
25 at any time when requested to do so, full information pertaining
26 to the operation of the school.

27 (b) Display of license.--The school shall prominently
28 display on the premises the current approved license where it
29 may be inspected by students, visitors and designated officials
30 of the board.

(c) ~~Advertising.~~ The ADVERTISING AND REPRESENTATIONS.--

<—

(1) THE advertising and representations made by any person representing the school or classes shall neither misrepresent any fact relating to the school nor mislead prospective students.

~~(d) Advertisements and representations.~~

<—

~~(1)~~ (2) A school shall not use any name, other than its licensed name, for advertising or publicity purposes. A school shall not advertise or imply that it is "supervised," "recommended," "endorsed," "accredited" or "approved" by the secretary, the department or the board.

~~(2)~~ (3) A school shall not claim or imply that it is endorsed by colleges, universities or other institutions of higher learning.

<—

~~(3)~~ (4) A school shall not claim or imply that it will guarantee admission to any educational institution or employment upon completion of its course OR program.

<—

<—

~~(4)~~ (5) A school shall not, by means of blind advertisements or advertisements in the help wanted or other employment columns of newspapers and other publications, solicit prospective students to enroll in the school.

<—

~~(e)~~ (D) Condition of premises.--The premises, equipment and conditions of the school or classes shall be adequate, safe and sanitary in accordance with standards of the Commonwealth or any of its political subdivisions that are applicable to the premises and equipment.

<—

Section 13. Enforcement, refusal, suspension or revocation of license.

(a) General rule.--The board shall have the power to take appropriate necessary action for the enforcement of its

1 policies, rules and regulations.

2 (b) ~~Suspension~~ REFUSAL TO ISSUE, SUSPENSION OF and <—
3 revocation of license.--The board shall have the power to refuse
4 to issue, suspend or revoke a license if it finds that:

5 (1) The licensee has violated any of the provisions of
6 this act or any of the rules and regulations of the board.

7 (2) The applicant or licensee has knowingly presented to
8 the board false, incomplete or misleading information
9 relating to licensure.

10 (3) The applicant or licensee has pleaded guilty,
11 entered a plea of nolo contendere or has been found guilty of
12 a crime constituting a misdemeanor or felony by a judge or
13 jury in any state or Federal court.

14 (4) The applicant or licensee has failed or refused to
15 permit the board or its representatives to inspect the school
16 or classes or has failed or refused to make available to the
17 board, at any time when requested to do so, full information
18 pertaining to any or all items of information contained in an
19 application for license or pertaining to the operation of the
20 private ~~licensed~~ ACADEMIC school. <—

21 (5) The applicant has failed or refused to submit to the
22 board an application for license or renewal in the manner and
23 form prescribed.

24 (6) A private academic school has failed or refused to
25 PROMINENTLY display on the school's premises the current <—
26 approved license where it may be inspected by students,
27 visitors or designated officials of the board.

28 (7) The applicant or licensee has failed to provide or
29 maintain premises, equipment or conditions which are
30 adequate, safe and sanitary in accordance with such standards

1 of the Commonwealth or any of its political subdivisions that
2 are applicable to the premises and equipment.

3 (8) The licensee has perpetrated fraud or deceit in
4 written or oral advertising of the school or classes or in
5 presenting to prospective students written or oral
6 information relating to the school or classes, employment
7 opportunities or opportunities for enrollment in institutions
8 of higher learning.

9 (9) The licensee has failed to provide and maintain
10 adequate premises, equipment, INSTRUCTIONAL materials or <—
11 supplies or has exceeded the maximum enrollment for which the
12 school was licensed ~~or program or course approved.~~ <—

13 (10) The licensee has failed to provide OR DIRECT and <—
14 maintain adequate standards of instruction or an adequate ~~and~~ <—
15 ~~qualified administrative, supervisory or instructional staff.~~
16 NUMBER OF QUALIFIED TEACHERS OR PROFESSIONAL STAFF. <—

17 (11) The applicant or licensee is unable to provide and
18 maintain financial resources in sufficient amount to equip
19 and maintain adequately and effectively the school or
20 classes.

21 (12) The licensee has moved the school into new premises
22 or facilities without notifying the board and before
23 receiving approval from the board.

24 (13) The licensee has offered ~~training or~~ instruction in <—
25 programs or courses which have not been approved and
26 authorized by the board.

27 (14) There was a change in the ownership of the school
28 without notification to and approval from the board.

29 (15) The school was operated or conducted under an
30 ownership arrangement not approved by the board.

1 (16) The licensee has had the license of a school
2 suspended or revoked in THIS COMMONWEALTH OR IN another <—
3 state.

4 (c) Adjudicatory procedure.--The procedure to be followed in
5 the refusal, suspension and revocation of licenses and in
6 appeals taken from those actions shall be in accordance with
7 Title 2 of the Pennsylvania Consolidated Statutes (relating to
8 administrative law and procedure).

9 (d) Reinstatement of license.--Unless directed to do so by
10 court order, the board shall not, for a period of five years
11 following revocation, reinstate the license of a private
12 ~~licensed school or admissions representative~~ ACADEMIC SCHOOL <—
13 which has been revoked. The school ~~or representative~~ shall be <—
14 required to reapply as a new licensee in accordance with the
15 provisions of this act.

16 Section 14. Promulgation of rules and regulations.

17 The board shall promulgate rules and regulations necessary to
18 carry out the purposes of this act. The rules and regulations of
19 the State Board of Private Academic Schools in force on the
20 effective date of this act, and not countermanded by this act,
21 shall remain in effect until repealed or amended by the board,
22 but not for a period of more than one year.

23 Section 15. Penalties.

24 (a) Summary offense.--A person who violates or fails to
25 comply with this act or a rule, regulation or standard
26 promulgated under this act commits a summary offense and shall,
27 upon conviction, be sentenced to pay a fine of not less than
28 \$300.

29 (b) Civil penalty.--In addition to any other penalty
30 provided in this act, the board may, by a majority vote of its

1 statutorily authorized membership, levy a civil penalty of up to
2 \$1,000 on any licensee who violates any provision of this act or
3 any person who operates a private ~~licensed~~ ACADEMIC school <—
4 without being properly licensed under this act. Prior to the
5 collection of the penalty, the licensee or person shall have
6 access to the hearing procedure provided in Title 2 of the
7 Pennsylvania Consolidated Statutes (relating to administrative
8 law and procedure).

9 Section 16. Existing licenses to remain in force.

10 Licenses issued by the State Board of Private Academic
11 Schools prior to the effective date of this act shall remain in
12 force for the period of the license.

13 Section 17. Repeals.

14 The following acts and parts of acts are repealed:

15 Sections 455 and 606-A(1) of the act of April 9, 1929
16 (P.L.177, No.175), known as The Administrative Code of 1929.

17 Act of 1947 (P.L.951, No.401), entitled, as amended, "An act
18 defining and providing for the licensing and regulation of
19 private academic schools; conferring powers and imposing duties
20 on the State Board of Private Academic Schools; and imposing
21 penalties."

22 SECTION 18. REESTABLISHMENT OF BOARD. <—

23 THIS ACT, WITH RESPECT TO THE STATE BOARD OF PRIVATE ACADEMIC
24 SCHOOLS, CONSTITUTES THE LEGISLATION REQUIRED TO REESTABLISH AN
25 AGENCY UNDER THE ACT OF DECEMBER 22, 1981 (P.L.508, NO.142),
26 KNOWN AS THE SUNSET ACT.

27 SECTION 19. EXISTING MEMBERS TO CONTINUE TO SERVE.

28 THE PRESENT MEMBERS OF THE EXISTING STATE BOARD OF PRIVATE
29 ACADEMIC SCHOOLS, AS OF DECEMBER 31, 1987, SHALL CONTINUE TO
30 SERVE AS MEMBERS UNTIL THEIR PRESENT TERMS OF OFFICE EXPIRE AND

1 UNTIL THEIR SUCCESSORS ARE APPOINTED AND QUALIFIED.

2 SECTION 20. EXISTING FEES TO REMAIN IN EFFECT.

3 EACH FEE OF THE STATE BOARD OF PRIVATE ACADEMIC SCHOOLS IN
4 EFFECT ON DECEMBER 31, 1986, SHALL REMAIN IN EFFECT UNTIL
5 REPEALED OR AMENDED BY THE BOARD.

6 SECTION 21. RETROACTIVITY.

7 THIS ACT SHALL BE RETROACTIVE TO JANUARY 1, 1988, IF ENACTED
8 AFTER THAT DATE.

9 Section ~~18~~ 22. Effective date.

<—

10 This act shall take effect January 1, 1988.