THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1216 Session of 2020

INTRODUCED BY LANGERHOLC, STEFANO, MENSCH, PHILLIPS-HILL, J. WARD, AUMENT, PITTMAN, REGAN, BROWNE, TARTAGLIONE, KILLION, SABATINA, VOGEL, SCAVELLO, BOSCOLA, COLLETT, BLAKE, SANTARSIERO, BAKER, IOVINO, MUTH, BREWSTER, HUGHES AND MASTRIANO, JUNE 19, 2020

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 29, 2020

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," IN PRELIMINARY PROVISIONS, FURTHER PROVIDING FOR KEYSTONE EXAMS AND GRADUATION REQUIREMENTS; in certification of teachers, FURTHER PROVIDING FOR INSTRUCTIONAL CERTIFICATE GRADE SPANS AND AGE LEVELS AND DUTIES OF DEPARTMENT AND providing for special provisions applicable to 2020-2021 school year; IN PUPILS AND ATTENDANCE, PROVIDING FOR NONPUBLIC SCHOOL TRANSPORTATION FOR 2020-2021 SCHOOL YEAR; AND, IN SCHOOL HEALTH SERVICES, FURTHER PROVIDING FOR CONFIDENTIALITY, TRANSFERENCE AND REMOVAL OF HEALTH RECORDS.

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

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

SECTION 1. SECTION 1202.1(A) OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS...
AMENDED BY ADDING A PARAGRAPH TO READ:

SECTION 1. SECTION 121(B)(1) OF THE ACT OF MARCH 10, 1949 (P.L.30, No.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS AMENDED TO READ:

SECTION 121. KEYSTONE EXAMS AND GRADUATION REQUIREMENTS.--*

* * *

(B) THE FOLLOWING SHALL APPLY:

(1) NOTWITHSTANDING SECTION 2604-B(B)(2)(V), 22 PA. CODE § 4.24 (RELATING TO HIGH SCHOOL GRADUATION REQUIREMENTS), 4.51 (RELATING TO STATE ASSESSMENT SYSTEM) OR 4.51C (RELATING TO PROJECT-BASED ASSESSMENT) OR ANY STATUTE OR REGULATION TO THE CONTRARY, THE USE OF THE KEYSTONE EXAMS AS A STATE OR LOCAL GRADUATION REQUIREMENT OR AS A BENCHMARK FOR THE NEED FOR PARTICIPATION IN A PROJECT-BASED ASSESSMENT SHALL BE DELAYED UNTIL THE [2021-2022] 2022-2023 SCHOOL YEAR.

* * *

SECTION 2. SECTION 1202.1(A) OF THE ACT IS AMENDED BY ADDING A PARAGRAPH TO READ:

SECTION 1202.1. INSTRUCTIONAL CERTIFICATE GRADE SPANS AND AGE LEVELS AND DUTIES OF DEPARTMENT.--(A) THE FOLLOWING SHALL APPLY TO SPECIAL EDUCATION CERTIFICATES:

* * *

(1.1) NOTWITHSTANDING PARAGRAPH (1), A TEACHER PREPARATION PROGRAM MAY PERMIT AN INDIVIDUAL ENROLLED AT AN INSTITUTION OF HIGHER EDUCATION OR IN AN APPROVED ALTERNATIVE PREPARATION PROGRAM PRIOR TO DECEMBER 31 2021, AND WHO REMAINS CONTINUOUSLY ENROLLED TO COMPLETE THE PROGRAM FOR THE GRADE LEVEL LIMITATIONS PROVIDED UNDER 22 PA. CODE § 49.85(A) AND (B). THE DEPARTMENT MAY ISSUE THE APPROPRIATE SPECIAL EDUCATION-PK-8 OR SPECIAL EDUCATION-7-12 CERTIFICATES TO AN APPLICANT WHO COMPLETES THE...
PROGRAM AND MEETS ALL OTHER CERTIFICATION REQUIREMENTS.

* * *

SECTION 2 3. THE ACT IS AMENDED BY ADDING A SECTION SECTIONS

TO READ:

Section 1207.4. Special Provisions Applicable to 2020-2021 School Year.--(a) Beginning on the effective date of this subsection and notwithstanding any other provision of law to the contrary, the Secretary of Education may do any or all of the following:

(1) Waive the requirement to satisfactorily complete the assessment of basic skills required under section 1207.3 and 22 Pa. Code § 49.18(c) (relating to assessment) during the 2020-2021 school year. This paragraph shall expire June 30, 2021.

(2) Issue a temporary provisional certificate to an educator who has completed a preparation program and meets all requirements for certification except the satisfactory completion of the assessments required pursuant to 22 Pa. Code § 49.18(c) because the assessments were canceled or could not be scheduled. A temporary provisional certificate issued under this paragraph shall expire after one year of issuance and may be converted to a Level I Pennsylvania certificate upon submission of evidence of satisfactory completion of the required assessments to the Department of Education. This paragraph shall expire on June 30, 2021.

(3) Issue an exceptional case permit for a professional employee at the request of a school entity that employs the professional employee who completed the final year of Level I Pennsylvania certificate validity in the 2019-2020 school year and who was unable to complete the assessment requirements for conversion to a Level II Pennsylvania certificate under 22 Pa. Code § 49.18(c). This paragraph shall expire on June 30, 2021.
Code § 49.18(a)(2)(iii) because the assessments were canceled or
could not be scheduled. The exceptional case permit shall expire
one year from the date of issuance. This paragraph shall expire
June 30, 2021.

(4) Issue a temporary certificate to an individual who is
unable to complete the appropriate subject matter test for areas
other than health and physical education, cooperative education,
all special education areas and additional areas as may be
determined by the Department of Education under 22 Pa. Code §
49.18(e) when the Department of Education determines that the
relevant assessment has been canceled or could not be scheduled.
An individual who provides evidence as required by the
Department of Education indicating that the individual attempted
to access testing and was denied registration may be eligible
for issuance of a temporary certificate under this paragraph.
The temporary certificate shall expire one year from the date of
issuance and may be converted to a full instructional
certificate by providing proof of satisfactory achievement on
the required test to the Department of Education. This paragraph
shall expire June 30, 2021.

(5) THE FOLLOWING PROVISIONS RELATING TO TESTING SHALL
APPLY:

(I) THE SECRETARY OF EDUCATION MAY WAIVE THE NIMS ASSESSMENT
AND THE NOCTI EXAM ON A SCHOOL-WIDE BASIS OR FOR A SPECIFIC
CAREER AND TECHNICAL EDUCATION PROGRAM PROVIDED BY A SCHOOL
ENTITY BASED ON THE RECOMMENDATIONS OF DIRECTORS OF CAREER AND
TECHNICAL EDUCATION PROGRAMS UNDER 22 PA. CODE CH. 339 (RELATING
TO VOCATIONAL EDUCATION). THE RECOMMENDATIONS SHALL ACCOUNT FOR
THE LENGTH OF TIME A CAREER AND TECHNICAL CENTER WAS OPEN FOR
IN-PERSON STUDENT INSTRUCTION AND THE SUBJECT MATTER OF THE
PROGRAM AFFECTED.

(II) The Secretary of Education shall waive the requirement to include performance data otherwise required under section 1123(B)(1)(II) in a professional employee's performance rating under section 1123.

(b) Beginning on the effective date of this subsection and notwithstanding any other provision of law to the contrary, the deadline by which any paraprofessional employed by a school entity as of March 13, 2020, must satisfy staff development activity hour requirements under 22 Pa. Code § 14.105 (relating to personnel) shall be extended until June 30, 2021. This subsection shall expire one year from the effective date of this subsection.

(C) The following provisions relating to testing of students shall apply:

(1) notwithstanding section 2604-B(B)(2)(V) or 22 Pa. Code § 4.24 (relating to high school graduation requirements), 4.51 (relating to state assessment system) or 4.51C (relating to project-based assessment), or any statute or regulation to the contrary, the use of the Keystone Exams as a state or local graduation requirement or as a benchmark for the need for participation in a project-based assessment shall be delayed until the 2022-2023 school year.

(2) The Secretary of Education shall apply to the United States Department of Education for a waiver of the testing and accountability requirements of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.), as amended by the Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802), if the United States Department of Education provides an opportunity to apply for such a waiver for
THE 2020-2021 SCHOOL YEAR.


(4) NOTWITHSTANDING THE PROVISIONS OF 22 PA. CODE § 4.4(D)(3) (RELATING TO GENERAL POLICIES), A PARENT OR GUARDIAN OF A STUDENT ENROLLED IN THE 2019-2020 OR 2020-2021 SCHOOL YEAR IN A GRADE OR COURSE IN AN ACADEMIC CONTENT AREA FOR WHICH AN ASSESSMENT IS TYPICALLY REQUIRED MAY ELECT TO OPT-OUT OF THE ASSESSMENT. THE FOLLOWING SHALL APPLY:

(I) A PARENT OR GUARDIAN WHO ELECTS TO OPT-OUT OF AN ASSESSMENT UNDER THIS PARAGRAPH SHALL NOT BE REQUIRED TO ADHERE TO THE PROCEDURES SET FORTH UNDER 22 PA. CODE § 4.4(D)(4).

(II) WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, A SCHOOL ENTITY SHALL NOTIFY ITS STUDENTS AND THEIR PARENTS OR GUARDIANS THAT THE PARENTS OR GUARDIANS MAY OPT-OUT OF AN ASSESSMENT UNDER THIS PARAGRAPH.

(III) A PARENT OR GUARDIAN OF A STUDENT WHO ELECTS TO OPT-OUT OF AN ASSESSMENT UNDER THIS PARAGRAPH SHALL NOTIFY A SCHOOL ENTITY IN WRITING OF THE DECISION TO OPT-OUT OF THE ASSESSMENT.

(IV) A SCHOOL ENTITY MAY NOT IMPOSE NEGATIVE CONSEQUENCES ON
A STUDENT, INCLUDING, BUT NOT LIMITED TO, THE DENIAL OF A HIGH
SCHOOL DIPLOMA, BASED SOLELY ON THE DECISION OF THE STUDENT'S
PARENT OR GUARDIAN TO OPT-OUT OF AN ASSESSMENT UNDER THIS
PARAGRAPH.

(V) A SCHOOL ENTITY OR AN EMPLOYEE OF THE SCHOOL ENTITY MAY
NOT ENCOURAGE A PARENT OR GUARDIAN OF A STUDENT TO OPT-OUT OF AN
ASSESSMENT UNDER THIS PARAGRAPH OR PENALIZE A STUDENT OR THE
STUDENT'S PARENT OR GUARDIAN FOR OPTING-OUT OF AN ASSESSMENT
UNDER THIS PARAGRAPH. NOTHING IN THIS SUBPARAGRAPH SHALL BE
CONSTRUED TO PROHIBIT A SCHOOL ENTITY OR AN EMPLOYEE OF THE
SCHOOL ENTITY FROM COMMUNICATING WITH STUDENTS OR THEIR PARENTS
OR GUARDIANS REGARDING THE OPTION TO OPT-OUT OF AN ASSESSMENT
UNDER THIS PARAGRAPH.

(VI) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM
"ASSESSMENT" SHALL INCLUDE THE PENNSYLVANIA SYSTEM OF SCHOOL
ASSESSMENT TEST, A KEYSTONE EXAM OR A TEST ESTABLISHED BY
STATUTE, REGULATION OR THE STATE BOARD OF EDUCATION IN
ACCORDANCE WITH SECTION 2603-B OR 2604-B, 22 PA. CODE § 4.51 OR
THE EVERY STUDENT SUCCEEDS ACT (PUBLIC LAW 114-95, 129 STAT.
1802).

SECTION 1361.1. NONPUBLIC SCHOOL TRANSPORTATION FOR 2020-
2021 SCHOOL YEAR.--(A) ALTHOUGH THE CURRENT PROVISIONS OF
SECTION 1361 REQUIRE SCHOOL DISTRICTS TO PROVIDE FOR THE
TRANSPORTATION OF STUDENTS ENROLLED IN NONPUBLIC SCHOOLS NOT
OPERATED FOR PROFIT, THE PURPOSE OF THIS SECTION IS TO CLARIFY
THE CURRENT PROVISIONS OF THIS ARTICLE RELATING TO THE
TRANSPORTATION OF THE STUDENTS DURING THE 2020-2021 SCHOOL YEAR
DURING THE COVID-19 DISASTER EMERGENCY.

(B) AS IT RELATES TO THE PROVISION OF TRANSPORTATION FOR
NONPUBLIC SCHOOLS FOR THE 2020-2021 SCHOOL YEAR, IF
TRANSPORTATION WAS PROVIDED DURING THE 2019-2020 SCHOOL YEAR FOR
PUPILS OF NONPUBLIC SCHOOLS UNDER SECTION 1361(1), THE BOARD OF
SCHOOL DIRECTORS SHALL PROVIDE PUPILS OF NONPUBLIC SCHOOL
TRANSPORTATION ON THE DATES AND PERIODS THAT THE NONPUBLIC
SCHOOL IS IN SESSION ACCORDING TO THE SCHOOL CALENDAR OFFICIALLY
ADOPTED BY THE NONPUBLIC SCHOOL WHETHER OR NOT TRANSPORTATION IS
PROVIDED ON THOSE DATES AND PERIODS TO STUDENTS ATTENDING
SCHOOLS OF THE DISTRICT.

(C) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS
THE CONTEXT CLEARLY INDICATES OTHERWISE:

"COVID-19 DISASTER EMERGENCY." THE PROCLAMATION OF DISASTER
EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT
50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF THE
PROCLAMATION OF DISASTER EMERGENCY.

SECTION 4. SECTION 1409 OF THE ACT IS AMENDED BY ADDING A
SUBSECTION TO READ:

SECTION 1409. CONFIDENTIALITY, TRANSFERENCE AND REMOVAL OF
HEALTH RECORDS.--* * *

(D) THE FOLLOWING APPLY:

(1) THE DEPARTMENT OF HEALTH OR THE LOCAL BOARD OR
DEPARTMENT OF HEALTH SHALL REPORT TO A SCHOOL ENTITY ANY
POSITIVE OR PRESUMPTIVE CASE OF COVID-19 THAT OCCURS IN A
STUDENT OR AN EMPLOYEE OF A SCHOOL ENTITY, IN A PROVIDER OF
SERVICES OR CONTRACTOR WHO WORKS AT THE SCHOOL ENTITY OR IN AN
INDIVIDUAL WHO VOLUNTEERS AT THE SCHOOL ENTITY, INCLUDING ANY
INDIVIDUAL WHO COACHES OR ADVISES AN EXTRACURRICULAR ACTIVITY
SPONSORED BY THE SCHOOL ENTITY, WITHIN TWENTY-FOUR (24) HOURS OF
RECEIPT OF THE INFORMATION OF A POSITIVE CASE OF COVID-19 IN AN
EMPLOYEE, A STUDENT, A CONTRACTOR OR A VOLUNTEER OF THE SCHOOL.

(2) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS PARAGRAPH:

"COVID-19" MEANS THE NOVEL CORONAVIRUS AS IDENTIFIED IN THE PROCLAMATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF THE STATE OF DISASTER EMERGENCY.


"SCHOOL ENTITY" MEANS ANY SCHOOL DISTRICT, INTERMEDIATE UNIT, CAREER AND TECHNICAL CENTER, CHARTER SCHOOL, REGIONAL CHARTER SCHOOL, CYBER CHARTER SCHOOL, PRIVATE OR NONPUBLIC SCHOOL.

Section 235. This act shall take effect immediately. AS FOLLOWS:

(1) THE AMENDMENT OF SECTION 1202.1(A) SHALL TAKE EFFECT IN 60 DAYS.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.