

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2419 Session of
1993

INTRODUCED BY MAYERNIK AND FAIRCHILD, DECEMBER 15, 1993

REFERRED TO COMMITTEE ON EDUCATION, DECEMBER 15, 1993

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 nonresident
6 child placed in home of resident, for liability for tuition
7 and enforcement of payment and for cost of tuition; and
8 making editorial changes.

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

11 Section 1. Section 1305 of the act of March 10, 1949
12 (P.L.30, No.14), known as the Public School Code of 1949,
13 amended February 17, 1956 (1955 P.L.1065, No.342) and January
14 14, 1970 (1969 P.L.468, No.192), is amended to read:

15 Section 1305. Non-resident Child Placed in Home of
16 Resident.--(a) When a non-resident child is placed in the home
17 of a resident of any school district by order of court or by
18 arrangement with an association, agency, or institution having
19 the care of neglected and dependent children, such resident
20 being compensated for keeping the child, any child of school age

1 so placed shall be entitled to all free school privileges
2 accorded to resident school children of the district, including
3 the right to attend the public high school maintained in such
4 district or in other districts in the same manner as though such
5 child were in fact a resident school child of the district.

6 (b) Any resident of any school district, before accepting
7 custody of a non-resident child of school age for compensation
8 by order of court or by arrangement with an association, agency,
9 or institution having the care of dependent or neglected
10 children, must secure, from the superintendent of schools or
11 school board in that district, a statement in writing that the
12 child can be accommodated in the schools of the district or that
13 the child can not be accommodated and the reasons therefor. If
14 such statements are not furnished within two weeks after a
15 request in writing has been made to the board's secretary, the
16 superintendent of schools, the board's assent shall be assumed,
17 and the child shall be admitted to the schools of the district
18 as a pupil. If such statement sets forth conditions such as to
19 exempt the district under this section from accepting the child
20 as a pupil, and if such exemption is not disapproved on appeal
21 by the [Superintendent of Public Instruction] Secretary of
22 Education, and if other arrangement for the child's schooling
23 satisfactory to the district superintendent is not made, the
24 child may not be placed in the district.

25 (c) Appeal from the claim of any school district for
26 exemption, as provided in this section, may be taken to the
27 Superintendent of Public Instruction, and his decision thereon
28 after investigation shall be final.

29 (d) If a bill submitted under sections 2561 and 2562 for
30 students attending a district under subsection (a) and (b)

1 remains unpaid for more than sixty (60) days, the district
2 submitting the bill may request that the Secretary of Education
3 transfer the amount billed. Upon receipt of such request, the
4 Secretary of Education shall withhold, from any moneys due, the
5 amounts owed by the district charged under this section and
6 sections 2561 and 2562, and shall pay that amount to the
7 requesting district. Such action of the Secretary of Education
8 shall be final.

9 (e) The provisions of other sections notwithstanding, if a
10 child attending a school district under subsections (a) and (b)
11 is an exceptional child, the district in which the institution
12 is located may charge the district of residence, and the
13 district of residence shall pay a special education charge in
14 addition to the applicable tuition charge. This special
15 education charge, when added to the generally applicable tuition
16 charge, shall equal the actual cost of educating such children.

17 Section 2. Sections 1308 and 1309 of the act, amended June
18 7, 1993 (P.L.49, No.16), are amended to read:

19 Section 1308. Liability for Tuition and Enforcement of
20 Payment.--(a) In all cases not covered by the preceding section
21 if a charge is made by any school district for tuition for the
22 inmates of any such institution, the officers of the institution
23 shall submit to the board of school directors a sworn statement,
24 setting forth the names, ages, and school districts liable for
25 tuition of all children who are inmates thereof, and desire to
26 attend public school in the district. The district in which the
27 institution is located shall obtain a blank acknowledging or
28 disclaiming residence, signed by the secretary of the school
29 district in which the institution declares the legal residence
30 of the child to be. If said district shall fail to file said

1 blank within fifteen (15) days from the date it is sent to the
2 district by registered mail, the district in which the
3 institution is located shall again notify the district of its
4 failure to comply with the provisions of this act. If the
5 district shall fail to comply within fifteen (15) days following
6 the second notice, said failures to return the blank shall be
7 construed as an acknowledgement of said child's residence. The
8 tuition of such inmates as are included in the sworn statement
9 to the board of school directors shall be paid by the district
10 of residence of the inmates upon receipt of a bill from the
11 district in which the institution is located setting forth the
12 names, ages and tuition charges of the inmates. The district so
13 charged with tuition may file an appeal with the Secretary of
14 Education, in which it shall be the complainant and the district
15 in which the institution is located the respondent. The decision
16 of the Secretary of Education, as to which of said parties is
17 responsible for tuition, shall be final.

18 (b) If a bill submitted under subsection (a) remains unpaid
19 for more than sixty (60) days, the district submitting the bill
20 may request that the Secretary of Education transfer the amount
21 billed. Upon receipt of such request, the Secretary of Education
22 shall withhold, from any moneys due, the amounts owed by the
23 district charged under subsection (a) and shall pay that amount
24 to the requesting district. Such action of the Secretary of
25 Education shall be final.

26 (c) If any inmates have been received from outside of
27 Pennsylvania, or if the institution cannot certify as to their
28 residence, their tuition shall be paid by the institution having
29 the care or custody of said children, except in the case of
30 medically indigent children hospitalized in exclusively

1 charitable children's hospitals exempt under section 501(c)(3)
2 of the Internal Revenue Code which make no charges to any of its
3 patients nor accepts any third-party payments for services
4 provided to any of its patients. In such cases their tuition
5 shall be paid by the Commonwealth out of moneys appropriated by
6 the General Assembly for the purposes of this act. Enrollment of
7 any out-of-state student in a school district or intermediate
8 unit program shall be conditioned upon a guarantee, or actual
9 advance receipt, of tuition and transportation payment from the
10 institution, from the student's home state or out-of-state
11 school district, or from the out-of-state party or agency which
12 placed the student in the institution, except in the case of
13 medically indigent children hospitalized in exclusively
14 charitable children's hospitals exempt under section 501(c)(3)
15 of the Internal Revenue Code which make no charges to any of its
16 patients nor accepts any third-party payments for services
17 provided to any of its patients where the Commonwealth is paying
18 the tuition as otherwise provided for in this paragraph. If the
19 Secretary of Education decides that the legal residence of any
20 of said inmates is in Pennsylvania, but cannot be fixed in a
21 particular district, the Commonwealth shall pay the tuition of
22 such inmate out of moneys appropriated to the Department of
23 Education by the General Assembly for the maintenance and
24 support of the public schools of the Commonwealth.

25 Section 1309. Cost of Tuition; How Fixed.--(a) The cost of
26 tuition in such cases shall be fixed as is now provided by law
27 for tuition costs in other cases, except in the following
28 circumstances:

29 (1) Where, for the accommodation of such children, it shall
30 be necessary to provide a separate school or to erect additional

1 school buildings, the charge for tuition for such children may
2 include a proportionate cost of the operating expenses, rental,
3 and interest on any investment required to be made in erecting
4 such new school buildings.

5 (2) When a child who is an inmate of an institution is an
6 exceptional child, the district in which the institution is
7 located may charge the district of residence, and the district
8 of residence shall pay a special education charge in addition to
9 the applicable tuition charge. [Such special education charge
10 shall not exceed an additional fifty percent (50%) of the
11 applicable tuition charge.] This special education charge, when
12 added to the generally applicable tuition charge, shall equal
13 the actual cost of educating such children.

14 (b) The tuition herein provided for shall be paid annually
15 by the Secretary of Education, the district of residence or the
16 institution as the case may be.

17 Section 3. The amendment of sections 1305, 1308 and 1309 of
18 the act shall apply retroactively to July 1, 1993.

19 Section 4. This act shall take effect as follows:

20 (1) The following provisions shall take effect in 60
21 days:

22 (i) The amendment of sections 1308 and 1309 of the
23 act.

24 (ii) Section 3 of this act.

25 (2) Section 1305 of the act shall take effect in 15
26 days.

27 (3) The remainder of this act shall take effect
28 immediately.