

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2918 Session of
2004

INTRODUCED BY FLEAGLE, BOYD AND MYERS, OCTOBER 18, 2004

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 18, 2004

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 compulsory
6 school attendance and for home education program.

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

9 Section 1. Sections 1327(d) and 1327.1 of the act of March
10 10, 1949 (P.L.30, No.14), known as the Public School Code of
11 1949, added December 21, 1988 (P.L.1321, No.169), are amended to
12 read:

13 Section 1327. Compulsory School Attendance.--* * *

14 (d) Instruction to children of compulsory school age
15 provided in a home education program, as provided for in section
16 1327.1 of this act, shall be considered as complying with the
17 provisions of this section, except that any student who has been
18 identified pursuant to the provisions of the Education of the
19 Handicapped Act (Public Law 91-230, 20 U.S.C. § 1401 et seq.) as

1 needing special education services, excluding those students
2 identified as gifted and/or talented, shall be in compliance
3 with the requirements of compulsory attendance by participating
4 in a home education program, as defined in section 1327.1, when
5 the program addresses the specific needs of the exceptional
6 student. [and is approved by a teacher with a valid certificate
7 from the Commonwealth to teach special education or a licensed
8 clinical or certified school psychologist, and written
9 notification of such approval is submitted with the notarized
10 affidavit required under section 1327.1(b).] The supervisor of a
11 home education program may request that the school district or
12 intermediate unit of residence provide services that address the
13 specific needs of the exceptional student in the home education
14 program. When the provision of services is agreed to by both the
15 supervisor and the school district or intermediate unit, all
16 services shall be provided in the public schools or in a private
17 school licensed to provide such programs and services.

18 Section 1327.1. Home Education Program.--(a) The following
19 words and phrases when used in this section shall have the
20 meanings given to them in this subsection:

21 "Appropriate education" shall mean a program consisting of
22 instruction in the required subjects for the time required in
23 this act [and in which the student demonstrates sustained
24 progress in the overall program].

25 "Hearing examiner" shall not be an officer, employe or agent
26 of the Department of Education or of the school district or
27 intermediate unit of residence of the child in the home
28 education program.

29 "Home education program" shall mean a program conducted, in
30 compliance with this section, by the parent or guardian or such

1 person having legal custody of the child or children.

2 "Supervisor" shall mean the parent or guardian or such person
3 having legal custody of the child or children who shall be
4 responsible for the provision of instruction[, provided that
5 such person has a high school diploma or its equivalent].

6 (b) The requirements contained in sections 1511 and 1511.1,
7 except as provided for in this section, and section 1605 shall
8 not apply to home education programs. A home education program
9 shall not be considered a nonpublic school under the provisions
10 of this act.

11 (1) A notarized affidavit of the parent or guardian or other
12 person having legal custody of the child or children, filed
13 prior to or by three days after the commencement of the home
14 education program and annually thereafter [on] by August 1 with
15 the superintendent of the school district of residence and which
16 sets forth: the name of the supervisor of the home education
17 program who shall be responsible for the provision of
18 instruction; the name and age of each child who shall
19 participate in the home education program; the address and
20 telephone number of the home education program site; that such
21 subjects as required by law are offered in the English
22 language[, including an outline of proposed education objectives
23 by subject area]; evidence that the child has been immunized in
24 accordance with the provisions of section 1303(a) and has
25 received the health and medical services required for students
26 of the child's age or grade level in Article XIV; and that the
27 home education program shall comply with the provisions of this
28 section and that the notarized affidavit shall be satisfactory
29 evidence thereof. [The required outline of proposed education
30 objectives shall not be utilized by the superintendent in

1 determining if the home education program is out of compliance
2 with this section and section 1327.] No additional information
3 may be requested or required. The affidavit shall contain a
4 certification to be signed by the supervisor that the
5 supervisor, all adults living in the home and persons having
6 legal custody of a child or children in a home education program
7 have not been convicted of the criminal offenses enumerated in
8 subsection (e) of section 111 within five years immediately
9 preceding the date of the affidavit.

10 (2) In the event the home education program site is
11 relocating to another school district within this Commonwealth
12 during the course of the public school term or prior to the
13 opening of the public school term in the fall, the supervisor of
14 the home education program must apply, by registered mail,
15 thirty (30) days prior to the relocation, to the superintendent
16 of the district in which he or she currently resides, requesting
17 a letter of transfer for the home education program to the
18 district to which the home education program is relocating. The
19 current superintendent of residence must issue the letter of
20 transfer thirty (30) days after receipt of the registered mail
21 request of the home education program supervisor.

22 (i) If the home education program is not in compliance with
23 the provisions of this section, the superintendent of the
24 current district of residence must inform the home education
25 supervisor and the superintendent of the district to which the
26 home education program is relocating the status of the home
27 education program and the reason for the denial of the letter of
28 transfer.

29 (ii) If the home education program is in hearing procedures,
30 as contained in this section, the superintendent of the current

1 district of residence must inform the home education supervisor,
2 the assigned hearing examiner and the superintendent of the
3 district to which the home education program is relocating the
4 status of the home education program and the reason for the
5 denial of the letter of transfer.

6 (3) The letter of transfer, required by clause (2), must be
7 filed by the supervisor of the home education program with the
8 superintendent of the new district of residence. In the case of
9 pending proceedings, the new district of residence
10 superintendent shall continue the home education program until
11 the appeal process is finalized.

12 (c) A child who is enrolled in a home education program and
13 whose education is therefore under the direct supervision of his
14 parent, guardian or other person having legal custody shall be
15 deemed to have met the requirements of section 1327 if that home
16 education program provides a minimum of one hundred eighty (180)
17 days of instruction or nine hundred (900) hours of instruction
18 per year at the elementary level, or nine hundred ninety (990)
19 hours per year at the secondary level:

20 (1) At the elementary school level, the following courses
21 shall be taught: English, to include spelling, reading and
22 writing; arithmetic; science; geography; history of the United
23 States and Pennsylvania; civics; safety education, including
24 regular and continuous instruction in the dangers and prevention
25 of fires; health and physiology; physical education; music; and
26 art.

27 (2) At the secondary school level, the following courses
28 shall be taught: English, to include language, literature,
29 speech and composition; science; geography; social studies, to
30 include civics, world history, history of the United States and

1 Pennsylvania; mathematics, to include general mathematics,
2 algebra and geometry; art; music; physical education; health;
3 and safety education, including regular and continuous
4 instruction in the dangers and prevention of fires. Such courses
5 of study may include, at the discretion of the supervisor of the
6 home education program, economics; biology; chemistry; foreign
7 languages; trigonometry; or other age-appropriate courses as
8 contained in Chapter 5 (Curriculum Requirements) of the State
9 Board of Education.

10 (d) The following minimum courses in grades nine through
11 twelve are established as a requirement for graduation in a home
12 education program:

- 13 (1) Four years of English.
- 14 (2) Three years of mathematics.
- 15 (3) Three years of science.
- 16 (4) Three years of social studies.
- 17 (5) Two years of arts and humanities.

18 (e) In order to demonstrate that appropriate education is
19 occurring, the supervisor of the home education program shall
20 [provide and] maintain on file the following documentation for
21 each student enrolled in the home education program:

- 22 (1) A portfolio of records and materials. The portfolio
23 shall consist of a log, made contemporaneously with the
24 instruction, which designates by title the reading materials
25 used, samples of any writings, worksheets, workbooks or creative
26 materials used or developed by the student and in grades three,
27 five and eight results of nationally normed standardized
28 achievement tests in reading/language arts and mathematics or
29 the results of Statewide tests administered in these grade
30 levels. The department shall establish a list, with a minimum of

1 five tests, of nationally normed standardized tests from which
2 the supervisor of the home education program shall select a test
3 to be administered if the supervisor does not choose the
4 Statewide tests. At the discretion of the supervisor, the
5 portfolio may include the results of nationally normed
6 standardized achievement tests for other subject areas or grade
7 levels. The supervisor shall ensure that the nationally normed
8 standardized tests or the Statewide tests shall not be
9 administered by the child's parent or guardian.

10 (i) A teacher or administrator who evaluates a portfolio at
11 the elementary level (grades kindergarten through six) shall
12 have at least two years of experience in grading any of the
13 following subjects: English, to include spelling, reading and
14 writing; arithmetic; science; geography; history of the United
15 States and Pennsylvania; and civics.

16 (ii) A teacher or administrator who evaluates a portfolio at
17 the secondary level (grades seven through twelve) shall have at
18 least two years of experience in grading any of the following
19 subjects: English, to include language, literature, speech,
20 reading and composition; science, to include biology, chemistry
21 and physics; geography; social studies, to include economics,
22 civics, world history, history of the United States and
23 Pennsylvania; foreign language; and mathematics, to include
24 general mathematics, algebra, trigonometry, calculus and
25 geometry.

26 (iii) As used in this clause, the term "grading" shall mean
27 evaluation of classwork, homework, quizzes, classwork-based
28 tests and prepared tests related to classwork subject matter.

29 (2) An annual written evaluation of the student's
30 educational progress as determined by a licensed clinical or

1 school psychologist or a teacher certified by the Commonwealth
2 or by a nonpublic school teacher or administrator. Any such
3 nonpublic teacher or administrator shall have at least two years
4 of teaching experience in a Pennsylvania public or nonpublic
5 school within the last ten years. Such nonpublic teacher or
6 administrator shall have the required experience at the
7 elementary level to evaluate elementary students or at the
8 secondary level to evaluate secondary students. The supervisor
9 shall have experience at the elementary level to evaluate
10 elementary students and at the secondary level to evaluate
11 secondary students. The certified teacher shall have experience
12 at the elementary level to evaluate elementary students or at
13 the secondary level to evaluate secondary students. The
14 evaluation shall also be based on an interview of the child and
15 a review of the portfolio required in clause (1) and shall
16 certify whether or not an appropriate education is occurring. At
17 the request of the supervisor, persons with other qualifications
18 may conduct the evaluation with the prior consent of the
19 district of residence superintendent. In no event shall the
20 evaluator be the supervisor or their spouse.

21 (f) The school district of residence shall, at the request
22 of the supervisor, lend to the home education program copies of
23 the school district's planned courses, textbooks and other
24 curriculum materials appropriate to the student's age and grade
25 level.

26 (g) When documentation is required by this section to be
27 submitted to the district of residence superintendent or the
28 hearing examiner, the superintendent or the hearing examiner
29 shall return, upon completion of his review, all such
30 documentation to the supervisor of the home education program.

1 The superintendent or hearing examiner may photocopy all or
2 portions of the documentation for his files.

3 (h) [Such documentation required by subsection (e)(1) and
4 (2)] The evaluation required by subsection (e)(2) shall be
5 provided to the public school district of residence
6 superintendent [at the conclusion of each public school year.]
7 by June 30 of each year. In addition, if the superintendent has
8 a reasonable belief that, at any time during the school year,
9 appropriate education may not be occurring in the home education
10 program, he may, by certified mail, return receipt requested,
11 require documentation pertaining to the portfolio of records and
12 materials required by subsection (e)(1) to be submitted to the
13 district within fifteen (15) days; and documentation pertaining
14 to subsection (e)(2) to be submitted to the district within
15 thirty (30) days. If the tests as required in subsection (e)(1)
16 have not been administered at the time of the receipt of the
17 certified letter by the supervisor, the supervisor shall submit
18 the other required documentation and shall submit the test
19 results with the documentation at the conclusion of the school
20 year.

21 (i) If the superintendent of the public school district
22 determines, based on the documentation provided, at the end of
23 or during the school year, that appropriate education is not
24 taking place for the child in the home education program, the
25 superintendent shall send a letter by certified mail, return
26 receipt requested, to the supervisor of the home education
27 program stating that in his opinion appropriate education is not
28 taking place for the child in the home education program and
29 shall return all documentation, specifying what aspect or
30 aspects of the documentation are inadequate.

1 (j) Upon receipt of the certified letter required by
2 subsection (i), the supervisor of the home education program
3 shall have twenty (20) days to submit additional documentation
4 demonstrating that appropriate education is taking place for the
5 child in the home education program. If documentation is not
6 submitted within that time, the home education program for the
7 child shall be out of compliance with the requirements of this
8 section and section 1327, and the student shall be promptly
9 enrolled in the public school district of residence or a
10 nonpublic school or a licensed private academic school.

11 (k) If the superintendent determines that the additional
12 documentation submitted still does not demonstrate that
13 appropriate education is taking place in the home education
14 program, he shall so notify the supervisor of the home education
15 program by certified mail, return receipt requested, and the
16 board of school directors shall provide for a proper hearing by
17 a duly qualified and impartial hearing examiner within thirty
18 (30) days. The examiner shall render a decision within fifteen
19 (15) days of the hearing except that he may require the
20 establishment of a remedial education plan mutually agreed to by
21 the superintendent and supervisor of the home education program
22 which shall continue the home education program. The decision of
23 the examiner may be appealed by either the supervisor of the
24 home education program or the superintendent to the Secretary of
25 Education or Commonwealth Court.

26 (l) If the hearing examiner finds that the documentation
27 does not indicate that appropriate education is taking place in
28 the home education program, the home education program for the
29 child shall be out of compliance with the requirements of this
30 section and section 1327, and the student shall be promptly

1 enrolled in the public school district of residence or a
2 nonpublic school or a licensed private academic school.

3 (m) At such time as the child's home education program has
4 been determined to be out of compliance with the provisions of
5 this section and section 1327, the supervisor or spouse of the
6 supervisor of the home education program shall not be eligible
7 to supervise a home education program for that child, as
8 provided for in subsection (b)(1) of this section, for a period
9 of twelve (12) months from the date of such determination.

10 Section 2. This act shall take effect immediately.