

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 298 Session of 2009

INTRODUCED BY D. O'BRIEN, BARRAR, BELFANTI, BRENNAN, COHEN,  
DeLUCA, GOODMAN, HARHAI, HARKINS, HARPER, KAUFFMAN, MELIO,  
MURT, MUSTIO, MYERS, RAPP, REICHLEY, SABATINA, SIPTROTH,  
K. SMITH, TRUE, VULAKOVICH AND WALKO, FEBRUARY 9, 2009

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 9, 2009

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 special education  
6 services for nonpublic school students.

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

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

12 Section 922.2-A. Special Education Services for Nonpublic  
13 School Students.--(a) Legislative Finding; Declaration of  
14 Policy. The welfare of this Commonwealth requires that school  
15 age children be assured ample opportunity to develop their  
16 intellectual capacities to the fullest. Children attending  
17 nonpublic schools have not been furnished special education  
18 services on an equal basis with public school children. It is  
19 the intent of the General Assembly to ensure that nonpublic

1 school children be afforded an equitable opportunity to receive  
2 special education services.

3 (b) Definitions. The following terms, whenever used or  
4 referred to in this section, shall have the following meanings,  
5 except in those circumstances where the context clearly  
6 indicates otherwise:

7 "Nonpublic school" means a nonprofit school, other than a  
8 public school or an approved private school within this  
9 Commonwealth wherein a resident of this Commonwealth may legally  
10 fulfill the compulsory school attendance requirements of this  
11 act and which meets the applicable requirements of Title VI of  
12 the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

13 "Special education services" means secular, neutral,  
14 nonideological educational services and related services for  
15 children with exceptionalities, as that term is defined in  
16 section 1371.

17 (c) Program of Special Education Services. (1) To the  
18 extent allowed by the level of funds appropriated by the General  
19 Assembly to implement the provisions of this section, children  
20 with exceptionalities attending nonpublic schools shall be  
21 furnished a program of special education services which are  
22 required by law to be offered to public school students in this  
23 Commonwealth and which are appropriate to the needs of those  
24 children. The program of special education services shall be  
25 provided by the intermediate unit in which the nonpublic school  
26 is located, in accordance with standards of the Secretary of  
27 Education.

28 (2) Such services shall be provided directly to the  
29 nonpublic school students by the intermediate unit in the  
30 schools which the students attend, in mobile instructional units

1 located on the grounds of such schools or in any alternative  
2 setting mutually agreed upon by the school and the intermediate  
3 unit, to the extent permitted by the Constitution of the United  
4 States and the Constitution of Pennsylvania.

5 (3) Such special education services may be provided directly  
6 by the intermediate units or through agreements between the  
7 intermediate units and school districts or qualified private  
8 service providers, but may not be provided by nonpublic school  
9 employees.

10 (4) School districts may also, at their option, provide such  
11 services to resident students attending nonpublic schools or  
12 place children in need of such services in nonpublic schools at  
13 school district expense.

14 (d) School District Responsibilities. Nothing in this  
15 section shall relieve any school district of any  
16 responsibilities, under Federal or State law, to identify,  
17 locate or evaluate any nonpublic school student who is in need  
18 of special education services. School districts may fulfill such  
19 responsibilities directly or by agreement with an intermediate  
20 unit.

21 (e) Intermediate Unit Responsibilities. (1) Intermediate  
22 units shall be responsible for designing and implementing  
23 appropriate individualized education programs for children with  
24 exceptionalities who attend nonpublic schools. The Secretary of  
25 Education shall prescribe standards establishing procedures for  
26 the development, review and revision of appropriate special  
27 education programs for such children, which standards shall  
28 include required timely and meaningful consultation with a  
29 representative of the nonpublic school which the child to be  
30 served attends regarding the child's secular educational needs.

1     (2) The required consultation shall occur before the  
2 intermediate unit makes any decision that affects the  
3 opportunities of nonpublic school children to participate in the  
4 services provided under this section, and shall include, at a  
5 minimum: which children shall receive services; what services  
6 will be provided; how and where the services will be provided;  
7 and how the services provided will be evaluated.

8     (f) Appropriations. (1) From the Federal funds received by  
9 the Commonwealth for special education services, the Secretary  
10 of Education shall allocate to intermediate units a proportion  
11 equal to the percentage of children with exceptionalities who  
12 attend nonpublic schools in this Commonwealth. Said funds shall  
13 be combined with State funds appropriated by the Commonwealth  
14 and utilized by the intermediate units for purposes of providing  
15 special education services under this section.

16     (2) Appropriations of Federal and State funds made by the  
17 Commonwealth under this section shall be allocated by the  
18 Secretary of Education to each intermediate unit based upon the  
19 number of nonpublic school children within that intermediate  
20 unit who are in need of special education services.

21     (g) Limitations on Expenditure. The intermediate unit shall  
22 not use more than six per centum (6%) of the funds it receives  
23 under this section for administrative expenses. The Department  
24 of Education shall not use more than one per centum (1%) of the  
25 funds it allocates under this section for administrative  
26 expenses. If all funds allocated by the intermediate units to  
27 administration are not expended for those purposes, such funds  
28 may be used for program costs under this section.

29     (h) Interest. There shall be no adjustment in the allocation  
30 as provided in subsection (f) because of interest earned on the

1 allocations by the intermediate units. Interest so earned shall  
2 be used for the purpose of this section but shall not be subject  
3 to the limitations of subsection (g).

4 (i) Budgets. Annually, each intermediate unit shall submit  
5 to the Secretary of Education a preliminary budget for services  
6 to be provided under this section on or before January 31 and a  
7 final budget on or before June 15 for the succeeding year, and  
8 shall file a final financial report on or before October 31 for  
9 the preceding year.

10 (j) Limitations on Regulations. (1) Nothing in this section  
11 shall be construed to authorize any additional regulations,  
12 requirements or limitations upon nonpublic schools which are not  
13 otherwise authorized by law.

14 (2) No nonpublic school may be compelled to accept or to  
15 enroll children with exceptionalities if the school:

16 (i) is not structured or equipped to meet the special needs  
17 of the student;

18 (ii) does not offer educational programs appropriate to the  
19 special needs of the student; or

20 (iii) does not offer a particular program requested.

21 (3) The providing of special education services to children  
22 under this section shall not be considered to be appropriations  
23 or financial assistance to the nonpublic school which the child  
24 attends.

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