

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1378 Session of 2011

INTRODUCED BY D. O'BRIEN, DAVIS AND PASHINSKI, APRIL 25, 2011

REFERRED TO COMMITTEE ON EDUCATION, APRIL 25, 2011

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  
20 school children be afforded an equitable opportunity to receive

1 special education services.

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

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

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

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

27 (2) Such services shall be provided directly to the  
28 nonpublic school students by the intermediate unit in the  
29 schools which the students attend, in mobile instructional units  
30 located on the grounds of such schools or in any alternative

1 setting mutually agreed upon by the school and the intermediate  
2 unit, to the extent permitted by the Constitution of the United  
3 States and the Constitution of Pennsylvania.

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

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

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

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

30 (2) The required consultation shall occur before the

intermediate unit makes any decision that affects the opportunities of nonpublic school children to participate in the services provided under this section, and shall include, at a minimum: which children shall receive services; what services will be provided; how and where the services will be provided; and how the services provided will be evaluated.

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

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

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

(h) Interest. There shall be no adjustment in the allocation as provided in subsection (f) because of interest earned on the allocations by the intermediate units. Interest so earned shall

1 be used for the purpose of this section but shall not be subject  
2 to the limitations of subsection (g).

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

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

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

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

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

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

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

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