

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 479 Session of 2013

INTRODUCED BY TOMLINSON, BROWNE, ERICKSON, YAW, RAFFERTY,  
ALLOWAY, MENSCH, FONTANA, TARTAGLIONE AND WOZNIAK,  
FEBRUARY 13, 2013

REFERRED TO EDUCATION, FEBRUARY 13, 2013

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) Declaration of Policy. It is the intent  
14 of the General Assembly to ensure that nonpublic school children  
15 be afforded an equitable opportunity to receive special  
16 education services.

17 (b) Definitions. The following terms, whenever used or  
18 referred to in this section, shall have the following meanings,  
19 except in those circumstances where the context clearly

1 indicates otherwise:

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

8 "Special education services" means secular, neutral,  
9 nonideological educational services and related services for  
10 children with exceptionalities, as that term is defined in  
11 section 1371.

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

22 (2) The services shall be provided directly to the nonpublic  
23 school student by the intermediate unit in the school which the  
24 student attends, in mobile instructional units located on the  
25 grounds of the school or in any alternative setting mutually  
26 agreed upon by the school and the intermediate unit, to the  
27 extent permitted by the Constitution of the United States and  
28 the Constitution of Pennsylvania.

29 (3) The services may be provided directly by the  
30 intermediate unit or through an agreement between the

1 intermediate unit and the school district or qualified private  
2 service providers, but may not be provided by nonpublic school  
3 employees.

4 (4) A school district may also, at their option, provide the  
5 services to resident students attending a nonpublic school or  
6 place a child in need of the services in a nonpublic school at  
7 school district expense.

8 (d) School District Responsibilities. Nothing in this  
9 section may relieve any school district of any responsibilities  
10 under Federal or State law to identify, locate or evaluate any  
11 nonpublic school student who is in need of special education  
12 services. A school district may fulfill its responsibilities  
13 directly or by agreement with an intermediate unit.

14 (e) Intermediate Unit Responsibilities. (1) Intermediate  
15 units shall be responsible for designing and implementing  
16 appropriate individualized education programs for children with  
17 exceptionalities who attend nonpublic schools. The Department of  
18 Education shall prescribe standards establishing procedures for  
19 the development, review and revision of appropriate special  
20 education programs for those children, which standards shall  
21 include timely and meaningful consultation with a representative  
22 of the nonpublic school that the child to be served attends  
23 regarding the child's secular educational needs.

24 (2) The required consultation shall occur before the  
25 intermediate unit makes any decision that affects the  
26 opportunities of nonpublic school children to participate in the  
27 services provided under this section, and shall include, at a  
28 minimum: which children shall receive services; what services  
29 will be provided; how and where the services will be provided;  
30 and how the services provided will be evaluated.

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

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

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

22 (h) Interest. There shall be no adjustment in the allocation  
23 as provided in subsection (f) because of interest earned on the  
24 allocations by the intermediate units. Interest so earned shall  
25 be used for the purpose of this section but shall not be subject  
26 to the limitations of subsection (g).

27 (i) Budgets. Annually, each intermediate unit shall submit  
28 to the Secretary of Education a preliminary budget for services  
29 to be provided under this section on or before January 31 and a  
30 final budget on or before June 15 for the succeeding year, and

1 shall file a final financial report on or before October 31 for  
2 the preceding year.

3 (j) Limitations on Regulations. (1) Nothing in this section  
4 may be construed to authorize any additional regulations,  
5 requirements or limitations upon nonpublic schools which are not  
6 otherwise authorized by law.

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

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

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

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

14 (3) The providing of special education services to children  
15 under this section shall not be considered to be appropriations  
16 or financial assistance to the nonpublic school which the child  
17 attends.

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