

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1423 Session of 2019

INTRODUCED BY ORTITAY, BARRAR, DeLUCA, MIHALEK, KAIL, FRITZ, PUSKARIC, MADDEN, MEHAFFIE, NELSON, SCHLOSSBERG, LONGIETTI, SCHROEDER, STAATS, FARRY, GILLEN AND SCHMITT, MAY 7, 2019

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2019

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," in school safety and security,
6 further providing for school safety and security training;
7 providing for threat assessment; and, in school health
8 services, further providing for confidentiality, transference
9 and removal of health records.

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

12 Section 1. Section 1310-B(1) of the act of March 10, 1949
13 (P.L.30, No.14), known as the Public School Code of 1949, added
14 June 22, 2018 (P.L.327, No.44), is amended to read:

15 Section 1310-B. School safety and security training.

16 School entities shall provide their employees with mandatory
17 training on school safety and security subject to the following:

18 (1) Training shall address any combination of one or
19 more of the following, based on the needs of the school
20 entity:

- 1 (i) Situational awareness.
- 2 (ii) Trauma-informed education awareness.
- 3 (iii) Behavioral health awareness.
- 4 (iv) Suicide and bullying awareness.
- 5 (v) Substance use awareness.
- 6 (vi) Emergency training drills, including fire,
- 7 natural disaster, active shooter, hostage situation and
- 8 bomb threat.

9 (vii) Identification or recognition of student
10 behavior that may indicate a threat to the safety of the
11 student, other students, school employees, school
12 facilities, the community or others.

13 * * *

14 Section 2. The act is amended by adding an article to read:

15 ARTICLE XIII-E

16 THREAT ASSESSMENT

17 Section 1301-E. Definitions.

18 The following words and phrases when used in this article
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Chief school administrator." A superintendent of a school
22 district, executive director of an intermediate unit,
23 administrative director of an area vocational-technical school
24 or chief executive officer of a charter school, regional charter
25 school or cyber charter school.

26 "County agency." The term includes, but is not limited to, a
27 county children and youth agency, drug and alcohol service
28 agency, mental health agency or other human or social services
29 agency.

30 "Mental health agency." The term includes, but is not

1 limited to, a state, county or local mental health service
2 provider, crisis intervention center or psychiatric hospital.

3 "Public school entity." A school district, intermediate
4 unit, area vocational-technical school, charter school, regional
5 charter school or cyber charter school.

6 "Safe2Say Program." The Safe2Say Program established under
7 Article XIII-D.

8 "Student assistance program." As defined in 22 Pa. Code §
9 12.16 (relating to definitions).

10 "Threat assessment task force" or "task force." The threat
11 assessment task force established by the School Safety and
12 Security Committee within the Pennsylvania Commission on Crime
13 and Delinquency under section 1303-E.

14 "Threat assessment team" or "team." A threat assessment team
15 established by a public school entity under section 1302-E(a).
16 Section 1302-E. Threat assessment teams.

17 (a) Duties of public school entities and chief school
18 administrators.--The following shall apply:

19 (1) Each public school entity shall establish at least
20 one threat assessment team as provided under subsection (b)
21 for the assessment of and intervention with students whose
22 behavior may indicate a threat to the safety of the student,
23 other students, school employees, school facilities, the
24 community or others.

25 (2) Each chief school administrator or a designee shall:

26 (i) Appoint the members of the threat assessment
27 team and designate a member to serve as team leader.

28 (ii) Ensure and establish procedures for the
29 implementation of this section.

30 (iii) Facilitate opportunities for members of the

1 threat assessment team to complete group or individual
2 training consistent with nationally recognized best
3 practices during paid working hours or as in-service
4 training.

5 (iv) Ensure that students, school employees and
6 parents and guardians are informed of the staff members
7 appointed to the team and how to report concerns to the
8 team. The information under this subparagraph shall be
9 posted on the public school entity's publicly accessible
10 Internet website.

11 (v) Annually develop and present to the school
12 entity's board of directors at an executive session a
13 report generally outlining the school entity's approach
14 to threat assessment which shall include:

15 (A) A verification that the public school entity
16 is in compliance with this article.

17 (B) The number and composition of established
18 threat assessment teams.

19 (C) The total number of threats assessed in the
20 public school entity.

21 (D) A summary of interactions with outside law
22 enforcement, juvenile probation and mental health
23 service providers.

24 (E) An assessment of the operation of the school
25 entity's threat assessment teams.

26 (F) Recommendations for improvement of the
27 school entity's threat assessment processes.

28 (G) Any additional information determined by the
29 chief school administrator or designee.

30 (b) Threat assessment team requirements.--The following

1 shall apply to threat assessment teams established under
2 subsection (a):

3 (1) Each team shall:

4 (i) Include individuals with expertise in:

5 (A) School health.

6 (B) Counseling, school psychology, or social
7 work.

8 (C) Special education.

9 (D) School administration.

10 (E) School security or law enforcement, if
11 available.

12 (F) Juvenile probation, if available.

13 (G) Mental health, if available.

14 (H) Other school staff or community resources
15 who may serve as regular team members or be consulted
16 during the threat assessment process as appropriate,
17 and as determined necessary by the team.

18 (ii) Have a designated leader.

19 (iii) Be responsible, at a minimum, for the
20 following:

21 (A) Making age-appropriate informational
22 materials available to students regarding recognition
23 of threatening or at-risk behavior that may present a
24 threat to the student, other students, school
25 employees, school facilities, the community or others
26 and how to report their concerns.

27 (B) Making informational materials available to
28 school employees regarding recognition of threatening
29 or at-risk behavior that may present a threat to the
30 student, other students, school employees, school

1 facilities, the community or others and how to report
2 their concerns.

3 (C) Identifying members of the school community
4 to whom threatening or at-risk behavior should be
5 reported, in addition to reports made under the
6 Safe2Say Program.

7 (D) Assisting in assessing and responding to
8 reports received through the Safe2Say Program. Where
9 a public school entity has only one threat assessment
10 team, that team may also serve as the school entity's
11 team for assessing and responding to reports received
12 through the Safe2Say Program.

13 (E) Assessing and responding to reports of
14 students exhibiting self-harm or suicide risk factors
15 or warning signs as provided for under section 1526.

16 (F) Assessing and making appropriate
17 determinations and referrals under subsection (c)
18 based on the information available to the team.

19 (G) Responding to threats as provided under
20 subsection (c).

21 (H) Providing required information to the chief
22 school administrator or designee to make the report
23 provided for under subsection (a) (2) (v).

24 (iv) Ensure parents and guardians are notified as
25 provided under subsection (c).

26 (v) Undergo training which shall address, at a
27 minimum, the following:

28 (A) Responsibilities of team members.

29 (B) The process of identifying, reporting,
30 assessing, responding to and intervening with

1 threats, including identifying and avoiding racial or
2 cultural bias.

3 (C) Confidentiality requirements under Federal
4 and State law.

5 (2) The training required under this section shall be
6 credited toward a professional educator's continuing
7 professional education requirement under section 1205.2, any
8 staff development requirements for paraprofessionals under 22
9 Pa. Code § 14.105 (relating to personnel), a school or system
10 leader's continuing professional education requirement under
11 section 1205.5 and the school safety and security training
12 required under section 1310-B.

13 (3) A public school entity may satisfy the requirements
14 of subsection (a)(1) by assigning the duties listed under
15 paragraph (1) to an existing team established by the public
16 school entity.

17 (4) A threat assessment team established by a public
18 school entity may serve one or more schools within the public
19 school entity.

20 (c) Notification and referral.--Upon a preliminary
21 determination that a student's behavior may indicate a threat to
22 the safety of the student, other students, school employees,
23 school facilities, the community or others, the following shall
24 apply:

25 (1) A threat assessment team shall immediately notify
26 the chief school administrator or a designee and the
27 student's building principal. The building principal shall
28 then immediately notify the student's parent or guardian.

29 (2) Following notification of the parent or guardian,
30 the threat assessment team may refer the student, as

1 appropriate, to:

2 (i) a student assistance program;

3 (ii) a mental health agency;

4 (iii) a health care provider;

5 (iv) a law enforcement agency;

6 (v) an evaluation under the Individuals with
7 Disabilities Education Act (Public Law 91-230, 20 U.S.C.
8 § 1400 et seq.) or section 504 of the Rehabilitation Act
9 of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.);

10 (vi) a student's existing individualized education
11 program team established under the Individuals with
12 Disabilities Education Act and 22 Pa. Code Ch. 14
13 (relating to special education services and programs); or

14 (vii) an existing team established to implement a
15 student's section 504 service agreement established under
16 section 504 of the Rehabilitation Act of 1973 and 22 Pa.
17 Code Ch. 15 (relating to protected handicapped students).

18 (3) Nothing in this section shall:

19 (i) Preclude school employees from acting
20 immediately to address an imminent threat.

21 (ii) Limit the responsibilities of school employees
22 or other mandated reporters to report suspected child
23 abuse as required by law.

24 (iii) Limit the authority of a public school entity
25 to refer a student to the student assistance program
26 without referral by a threat assessment team, so long as
27 the student's behavior does not indicate a threat to the
28 safety of the student, other students, school employees,
29 school facilities, the community or others.

30 (d) Access to student information.--In order to carry out

1 the duties under subsections (b) and (c) and facilitate the
2 timely assessment of, and intervention with, students whose
3 behavior may indicate a threat to the safety of the student,
4 other students, school employees, school facilities, the
5 community or others, a threat assessment team shall have access
6 to the following student information to the extent permissible
7 under Federal law:

8 (1) Notwithstanding any provision of section 1409 to the
9 contrary, student health records.

10 (2) Prior school disciplinary records.

11 (3) Records or information shared with the public school
12 entity under Article XIII-A and 42 Pa.C.S. § 6341(b.1)
13 (relating to adjudication).

14 (4) Records of any prior mental health or psychological
15 evaluations or screenings maintained by the public school
16 entity.

17 (5) Other records or information that may be relevant to
18 evaluating a threat or determining treatment or referral
19 options for a student that are maintained by the public
20 school entity.

21 (e) Cooperation of county agency or juvenile probation
22 department.--Notwithstanding 42 Pa.C.S. § 6352.2 (relating to
23 interagency information sharing), upon a preliminary
24 determination that a student's behavior indicates a threat to
25 the safety of the student, other students, school employees,
26 school facilities, the community or others, a threat assessment
27 team may request that the county agency or juvenile probation
28 department consult and cooperate with the team in assessing the
29 student who is the subject of the preliminary determination. The
30 county agency or juvenile probation department shall comply with

1 the threat assessment team's request except as prohibited by the
2 following:

3 (1) 42 Pa.C.S. § 5944 (relating to confidential
4 communications to psychiatrists or licensed psychologists).

5 (2) The act of February 13, 1970 (P.L.19, No.10),
6 entitled "An act enabling certain minors to consent to
7 medical, dental and health services, declaring consent
8 unnecessary under certain circumstances."

9 (3) The act of July 9, 1976 (P.L.817, No.143), known as
10 the Mental Health Procedures Act.

11 (4) The act of November 29, 1990 (P.L.585, No.148),
12 known as the Confidentiality of HIV-Related Information Act.

13 (5) Federal law, including the Family Educational Rights
14 and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. §
15 1232g), the Individuals with Disabilities Education Act, the
16 Health Insurance Portability and Accountability Act of 1996
17 (Public Law 104-191, 110 Stat. 1936), and the procedures,
18 limitations and criteria set forth in regulations adopted by
19 the Department of Health and Human Services relating to the
20 confidentiality of drug and alcohol treatment records.

21 (f) Use of records.--The threat assessment team shall use
22 the information contained in the records obtained under
23 ~~subsections (d) and (e)~~ SUBSECTION (D) in fulfilling the team's <--
24 duty to evaluate a threat or the recommended disposition of a
25 threat. No member of a threat assessment team may redisclose any
26 record or information obtained under this section or otherwise
27 use any record of a student beyond the purpose for which the
28 disclosure was made to the threat assessment team.

29 (g) Disclosure.--The following shall apply:

30 (1) Records or documentation developed or maintained by

1 a threat assessment team shall not be subject to the act of
2 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
3 Law.

4 (2) Records of a threat assessment team that pertain to
5 a student shall be considered a part of the student's
6 educational records.

7 (3) Public school entities shall not be required to
8 report any data on the functioning of threat assessment teams
9 other than specifically required under this article.

10 Section 1303-E. Threat assessment task force.

11 No later than 60 days from the effective date of this
12 section, the School Safety and Security Committee within the
13 Pennsylvania Commission on Crime and Delinquency shall establish
14 a threat assessment task force. The following shall apply:

15 (1) The task force shall consist of one representative
16 from each of the following:

17 (i) The Department of Education.

18 (ii) The Pennsylvania Commission on Crime and
19 Delinquency.

20 (iii) The Department of Human Services.

21 (iv) The Pennsylvania Emergency Management Agency.

22 (v) The Office of Attorney General.

23 (vi) The Pennsylvania State Police.

24 (vii) The Pennsylvania Association of School
25 Administrators.

26 (viii) The Pennsylvania School Boards Association.

27 (ix) The Pennsylvania State Education Association.

28 (x) The Juvenile Court Judges' Commission.

29 (xi) The Association of School Psychologists of
30 Pennsylvania.

1 (2) The task force shall elect one of its members to
2 serve as chairperson.

3 (3) The task force shall:

4 (i) Meet at least bi-annually, at the call of the
5 chairperson.

6 (ii) Receive any administrative assistance required
7 from the School Safety and Security Committee within the
8 Pennsylvania Commission on Crime and Delinquency.

9 (iii) Research, develop and publish best practices
10 in implementing this article and make recommendations to
11 the Governor and the General Assembly regarding
12 legislative or regulatory changes necessary to improve
13 threat assessment in public school entities.

14 (iv) Develop and offer, at no charge to public
15 school entities, all of the following:

16 (A) A model training program for members of
17 threat assessment teams that may be used and adapted
18 by public school entities and team members to meet
19 the requirements of section 1302-E(b)(1)(v).

20 (B) A model training program for school
21 employees, other than members of threat assessment
22 teams, that may be used and adapted by public school
23 entities to meet the requirements of section 1310-
24 B(1).

25 (C) Model, age-appropriate informational
26 materials for students that may be used and adapted
27 by public school entities to meet the requirements of
28 section 1302-E(a)(2)(iv) and (b)(1)(iii)(A).

29 (D) Model informational materials for parents
30 and school employees that may be used and adapted by

1 public school entities to meet the requirements of
2 section 1302-E(a)(2)(iv) and (b)(1)(iii)(B).

3 (v) Model training programs developed under this
4 paragraph shall be available through the Internet or
5 other distance communications systems.

6 (vi) Within 60 days of establishment of the task
7 force, develop model procedures and guidelines that
8 public school entities may use in implementing this
9 article. The model procedures and guidelines shall, at a
10 minimum:

11 (A) Establish standard definitions and
12 terminology.

13 (B) Reflect best practices in identifying,
14 reporting, assessing and responding to threats,
15 including threats reported through the Safe2Say
16 Program.

17 (C) Provide for flexibility and local decision-
18 making and recognize the differing levels of
19 available resources in each public school entity.

20 (D) Be posted on the Pennsylvania Commission on
21 Crime and Delinquency's publicly accessible Internet
22 website.

23 Section 1304-E. Grant funding.

24 Notwithstanding any provision of law to the contrary, a
25 public school entity, OTHER THAN A CYBER CHARTER SCHOOL, shall <--
26 be eligible to receive grant funding under section 1302-A or
27 1306-B for the purpose of implementing this article.

28 Section 3. Section 1409 of the act is amended to read:

29 Section 1409. Confidentiality, Transference and Removal of
30 Health Records.--[All] (a) Except as provided under subsection

1 (b), all health records established and maintained pursuant to
2 this act shall be confidential, and their contents shall be
3 divulged only when necessary for the health of the child or at
4 the request of the parent or guardian to a physician legally
5 qualified to practice medicine and surgery or osteopathy or
6 osteopathic surgery in the Commonwealth.

7 (b) Notwithstanding any limitation on disclosure provided
8 under this section or any other law, a public school entity may
9 disclose information from education records to appropriate
10 parties in connection with an emergency if knowledge of the
11 information is necessary to protect the health or safety of the
12 student or other individuals in accordance with the Family
13 Educational Rights and Privacy Act of 1974 (Public Law 90-247,
14 20 U.S.C. § 1232g).

15 (c) In the case of any child of school age who enrolls in
16 any school, public or private, in any district and who
17 previously attended school in another district in Pennsylvania,
18 the district or school wherein the child is newly enrolled shall
19 request and the district or school where the child previously
20 attended shall surrender the health record of the child. School
21 districts, joint school boards or private schools, shall not
22 destroy a child's health record for a period of at least two
23 years after the child ceases to be enrolled, but may surrender
24 such child's health record or portion thereof to his parent or
25 guardian if the child does not re-enroll in an elementary or
26 secondary school in Pennsylvania.

27 Section 4. The amendment or addition of sections 1310-B(1)
28 and 1302-E shall apply beginning in the 2021-2022 school year.

29 Section 5. This act shall take effect immediately.