

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. **440** Session of
2019

INTRODUCED BY PHILLIPS-HILL, FOLMER, MARTIN, BARTOLOTTA, AUMENT,
HUTCHINSON, REGAN AND BROOKS, MARCH 15, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 19, 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 terms and courses of study,
6 providing for flexible instructional days.

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 1506. Flexible Instructional Days.--(a) Within
13 thirty (30) days of the effective date of this section, the
14 department shall issue guidance and establish a standard
15 application form for a public school entity seeking to establish
16 or renew a program. The guidance and form shall be published on
17 the department's publicly accessible Internet website.

18 (b) The form under subsection (a) shall require the
19 following information:

1 (1) The procedure for a public school entity to notify
2 students, parents and professional employes that a flexible
3 instructional day is instituted.

4 (2) The procedure for instituting a flexible instructional
5 day, including whether the public school entity will use
6 technology. If technology will be used by the school entity, the
7 procedure shall include information regarding accommodations for
8 students AND PROFESSIONAL EMPLOYES without Internet access at <--
9 home and for digital device access at home and for digital
10 access for families AND EMPLOYES without technology or an <--
11 insufficient amount of technology for the number of children in
12 the household.

13 (3) The responsibilities of professional employes and
14 students during a flexible instructional day.

15 (4) The procedure for identifying student participation
16 during a flexible instructional day for the purpose of enforcing
17 attendance under Article XIII.

18 (5) Instruction exemplary of a flexible instruction day in
19 each of the following:

20 (i) English language arts in any grade from grades nine
21 through twelve.

22 (ii) Mathematics in any grade from grades nine through
23 twelve.

24 (iii) Science in any grade from grades nine through twelve.

25 (iv) Social Studies in any grade from grades nine through
26 twelve.

27 (v) English language arts in kindergarten or in any grade
28 from grades one through eight.

29 (vi) Mathematics in kindergarten or in any grade from grades
30 one through eight.

1 (6) Assurance of compliance with the Individuals with
2 Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400
3 et seq.) during a flexible instructional day.

4 (7) Any additional information that the department deems
5 necessary to determine whether to accept or deny an application
6 to establish or renew a program.

7 (c) (1) For the first two years for application under this
8 section, a public school entity's application to establish a
9 program shall be submitted to the department on or before
10 September 1 and the department shall notify the public school
11 entity if its application is accepted or denied by November 1.

12 (2) For each year thereafter, a public school entity's
13 application to establish or renew a program shall be submitted
14 to the department on or before June 1 and the department shall
15 notify the public school entity if its application or renewal is
16 accepted or denied by August 1.

17 (d) An application accepted under this section shall remain
18 valid for a period of three (3) years.

19 (e) The department shall issue an annual survey related to
20 the efficacy of flexible instructional days on or before April
21 30 of each year to each public school entity with an accepted
22 application. Each public school entity shall return the survey
23 to the department by June 30 of the same year.

24 (F) A NONPUBLIC SCHOOL MAY USE TECHNOLOGY OR OTHER
25 APPROPRIATE MEANS TO PROVIDE INSTRUCTION TO STUDENTS ON DAYS
26 WHEN A SCHOOL BUILDING IS PREVENTED FROM OPENING. IN ORDER TO
27 PROVIDE THE INSTRUCTION, A NONPUBLIC SCHOOL MUST HAVE PROCEDURES
28 IN PLACE TO ENSURE THE FOLLOWING:

29 (1) THE ENFORCEMENT OF STUDENT ATTENDANCE UNDER ARTICLE
30 XIII.

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1 (2) THE FULFILLMENT OF THE MINIMUM HOURS OF INSTRUCTION PER
2 YEAR UNDER SECTION 1327.

3 (G) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE <--
4 OR PREEMPT THE RIGHTS, REMEDIES AND PROCEDURES AFFORDED TO
5 SCHOOL EMPLOYES OR LABOR ORGANIZATIONS UNDER FEDERAL OR STATE
6 LAW, INCLUDING THE ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN
7 AS THE "PUBLIC EMPLOYE RELATIONS ACT," OR ANY PROVISION OF A
8 COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN A SCHOOL
9 ENTITY AND AN EXCLUSIVE REPRESENTATIVE OF THE EMPLOYES IN
10 ACCORDANCE WITH THE "PUBLIC EMPLOYE RELATIONS ACT."

11 ~~(f)~~ (G) (H) As used in this section, the following words and <--
12 phrases shall have the meanings given to them in this
13 subsection:

14 "Department" shall mean the Department of Education of the
15 Commonwealth.

16 "Flexible instructional day" shall mean a day that satisfies
17 all of the following:

18 (1) Fulfills one of the minimum required days of instruction
19 under section 1501.

20 (2) Prevents a school building from opening due to any of
21 the following:

22 (i) A disease epidemic.

23 (ii) A hazardous weather condition.

24 (iii) A law enforcement emergency.

25 (iv) The inoperability of school buses or other equipment
26 necessary to the public school entity's operation.

27 (v) Damage to a school building.

28 (vi) Another temporary circumstance rendering any portion of
29 a school building unfit or unsafe for use.

30 (3) Provides instruction to students.

1 "Program" shall mean a program that allows for a number of
2 flexible instructional days not to exceed five (5) days during a
3 school year.

4 "Public school entity" shall mean any of the following:

5 (1) A school district.

6 (2) An intermediate unit.

7 (3) An area vocational-technical school.

8 (4) A charter school or regional charter school, as defined
9 in section 1703-A.

10 "School building" shall mean a building owned by or under the
11 control of a public school entity OR NONPUBLIC SCHOOL where <--
12 classes are taught or extracurricular activities are conducted
13 on a regular basis.

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