
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2169 Session of
2021

INTRODUCED BY OWLETT, WHITE, ROTHMAN, PICKETT, HAMM, TOPPER,
ROWE, MERCURI, RYAN, GLEIM, ROAE, KAIL, KAUFFMAN, BERNSTINE,
M. MACKENZIE, SCHEMEL, SILVIS, ECKER AND GROVE,
DECEMBER 14, 2021

REFERRED TO COMMITTEE ON EDUCATION, DECEMBER 14, 2021

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," establishing the Lifeline Scholarship
6 Program.

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 an
11 article to read:

12 ARTICLE XX-L

13 LIFELINE SCHOLARSHIP PROGRAM

14 Section 2001-L. Scope.

15 This article relates to the Lifeline Scholarship Program.

16 Section 2002-L. Definitions.

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

1 "Applicant." A parent who applies for a lifeline scholarship
2 account under section 2003-L(b) on behalf of an eligible
3 student.

4 "Average daily membership." As defined in section 2501.

5 "Department." The Treasury Department of the Commonwealth.

6 "Department of Education." The Department of Education of
7 the Commonwealth.

8 "Distance education." Instruction offered by any means where
9 a student and faculty member are in separate physical locations
10 so that in-person communication is absent and communication is
11 accomplished instead by one or more technological media. The
12 term includes real-time or delayed interaction using voice,
13 video, data or text, including instruction provided online, via
14 correspondence or via interactive video. The term does not
15 include independent study or instruction that is not instructor
16 led.

17 "Eligible postsecondary institution." The term includes all
18 of the following:

19 (1) A community college operating under Article XIX-A.

20 (2) A college established under Article XIX-G.

21 (3) A university within the State System of Higher
22 Education established under Article XX-A.

23 (4) A State-related institution.

24 (5) Thaddeus Stevens College of Technology.

25 "Eligible student." A school-age child who:

26 (1) Has not yet received a high school diploma.

27 (2) Currently resides within the attendance area of a
28 low-achieving school.

29 (3) Satisfies one of the following:

30 (i) Attended a public school in this Commonwealth in

1 the preceding school year.

2 (ii) Received funds from the program in the
3 preceding school year.

4 (iii) Will attend first grade for the first time in
5 the next school year.

6 (iv) Is currently a child in foster care as defined
7 in section 2 of the act of November 23, 2010 (P.L.1264,
8 No.119), known as the Children in Foster Care Act.

9 (v) Is a child whose adoption decree was entered not
10 more than one year prior to submission of the application
11 under section 2003-L(b).

12 (vi) Is a child whose parent is on full-time active-
13 duty status in the armed forces of the United States,
14 including a member of the National Guard and reserve on
15 active duty orders under 10 U.S.C. §§ 12301 et seq.
16 (relating to reserve components generally) and 12401 et
17 seq. (relating to Army and Air National Guard of the
18 United States: status).

19 "Institution of higher education." The term includes the
20 following:

21 (1) An eligible postsecondary institution.

22 (2) An institution of higher education located in and
23 incorporated or chartered by the Commonwealth and entitled to
24 confer degrees as specified in 24 Pa.C.S. § 6505 (relating to
25 power to confer degrees) and as provided for by the standards
26 and qualifications prescribed by the State Board of Education
27 under 24 Pa.C.S. Ch. 65 (relating to private colleges,
28 universities and seminaries).

29 (3) A private school licensed under the act of December
30 15, 1986 (P.L.1585, No.174), known as the Private Licensed

1 Schools Act.

2 (4) A foreign corporation approved to operate an
3 educational enterprise under 22 Pa. Code Ch. 36 (relating to
4 foreign corporation standards).

5 "Lifeline scholarship account." A spending account
6 established and administered by the department and controlled by
7 a parent for an eligible student with money that may only be
8 spent on a qualified education expense as provided for under
9 section 2005-L.

10 "Low-achieving school." As defined under section 2002-B.

11 "Nonpublic school." A nonprofit school, other than a public
12 school, located in this Commonwealth where a resident of this
13 Commonwealth may legally fulfill the compulsory attendance
14 requirements of this act that complies with section 1521 and
15 meets the applicable requirements of Title VI of the Civil
16 Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

17 "Parent." An individual who:

18 (1) is a current resident of this Commonwealth; and

19 (2) either:

20 (i) has legal custody or guardianship of an eligible
21 student; or

22 (ii) keeps in the individual's home an eligible
23 student and supports the student gratis as if the student
24 were a lineal descendant of the individual.

25 "Participating entity."

26 (1) Any of the following where an eligible student
27 receives instruction or support:

28 (i) A nonpublic school for grade one through grade
29 twelve, or a combination of grades.

30 (ii) An institution of higher education.

1 (iii) A distance learning program.

2 (iv) A tutor who is a teacher certified in a state,
3 has tutored or taught at an eligible postsecondary
4 institution or an eligible nonpublic school or is a
5 subject matter expert or a tutor or tutoring agency
6 otherwise approved by the Department of Education.

7 (v) A school counselor who is certified by the
8 Commonwealth to work with school-aged children.

9 (vi) A provider of curriculum that adheres to
10 education laws of the Commonwealth.

11 (2) The term does not include a parent to the extent
12 that the parent provides educational services directly to the
13 parent's child.

14 "Program." The Lifeline Scholarship Program established
15 under section 2003-L(a).

16 "Public school." A school district, charter school, cyber
17 charter school, regional charter school, intermediate unit or
18 area career and technical school.

19 "Resident school district." The school district in which an
20 eligible student currently resides.

21 "School-age child." An individual six to 21 years of age who
22 currently resides in this Commonwealth.

23 "State-related institution." The Pennsylvania State
24 University, including the Pennsylvania College of Technology,
25 the University of Pittsburgh, Temple University and Lincoln
26 University, and any other institution designated as State-
27 related by the Commonwealth.

28 "Student with special needs." A child who:

29 (1) is subject to an individualized education program
30 under the Individuals with Disabilities Education Act (Public

1 Law 91-230, 20 U.S.C. § 1400 et seq.) and 22 Pa. Code Ch. 14
2 (relating to special education services and programs);

3 (2) is subject to a section 504 service agreement under
4 section 504 of the Rehabilitation Act of 1973 (Public Law 93-
5 112, 29 U.S.C. § 701 et seq.) and 22 Pa. Code Ch. 15
6 (relating to protected handicapped students);

7 (3) is subject to a gifted individualized education plan
8 under 22 Pa. Code Ch. 16 (relating to special education for
9 gifted students); or

10 (4) meets the definition of "child with a disability"
11 under the Individuals with Disabilities Education Act or
12 meets the definition of a "handicapped person" under section
13 504 of the Rehabilitation Act of 1973 and its implementing
14 regulations at 34 CFR § 104.3(j) (relating to definitions).
15 This paragraph includes a student for whom an evaluation is
16 pending under either the Individuals with Disabilities
17 Education Act or the Rehabilitation Act of 1973.

18 Section 2003-L. Establishment, application and agreement.

19 (a) Establishment.--Beginning with the 2022-2023 school
20 year, the Lifeline Scholarship Program is established as a
21 program of the department.

22 (b) Application form.--By May 1, 2022, the department shall
23 develop an application form that can be accessed from and
24 submitted electronically on the department's publicly accessible
25 Internet website. The form may not exceed one page that measures
26 8.5 inches by 11 inches.

27 (c) Review, approval and appeal.--

28 (1) An application must be submitted by the applicant to
29 the department for review. An eligible student shall be
30 accepted into the program if the student meets the

1 requirements of this article.

2 (2) Within 30 days of receipt of an application, the
3 department shall notify the resident school district and the
4 parent of a student's acceptance or nonacceptance into the
5 program.

6 (3) A parent may appeal the department's decision to
7 deny acceptance into the program within 30 days of issuance
8 of the decision. The appeal shall be governed by 2 Pa.C.S.
9 Chs. 1 (relating to general provisions), 5 (relating to
10 practice and procedure) and 7 (relating to judicial review).

11 (d) Agreement.--

12 (1) If the department approves an application, the
13 department shall enter into an agreement with the applicant.
14 The agreement shall provide the following:

15 (i) The eligible student shall withdraw from public
16 school and receive instruction in this Commonwealth from
17 a participating entity for the school year for which the
18 agreement applies.

19 (ii) The eligible student may not accept a
20 scholarship in the educational improvement tax credit
21 program under Article XX-B or the opportunity scholarship
22 tax credit program under Article XX-B.

23 (iii) The parent will receive a grant on behalf of
24 the eligible student, in the form of money deposited
25 under section 2004-L in the lifeline scholarship account.

26 (iv) The money in the lifeline scholarship account
27 may be expended only as authorized under this article.

28 (2) Failure of a parent to enter into an agreement on
29 behalf of the eligible student for a school year shall not
30 preclude the parent from entering into an agreement with the

1 department for a subsequent school year if the student is an
2 eligible student.

3 (e) Term of agreement.--Except as otherwise provided under
4 this article, an agreement entered into under subsection (d)
5 shall be valid for one school year.

6 (f) Termination.--

7 (1) Notwithstanding subsection (g), an agreement entered
8 into under subsection (d) may be terminated early by either
9 the parent or the department.

10 (2) If an agreement is terminated early, all available
11 money in the lifeline scholarship account shall be repaid to
12 the resident school district within 15 business days after
13 termination.

14 (g) Automatic termination.--

15 (1) An agreement entered into under subsection (d) shall
16 terminate automatically if the student no longer resides in
17 this Commonwealth.

18 (2) The parent shall notify the department if the
19 student no longer resides in this Commonwealth within 15 days
20 of the change of residence.

21 (3) After the student's parent notifies the department
22 under paragraph (2), money remaining in the lifeline
23 scholarship account shall be repaid to the resident school
24 district within 15 business days after notification.

25 (h) Renewal.--

26 (1) Subject to subsection (k), an agreement entered into
27 under subsection (d) may be renewed for each school year for
28 the eligible student.

29 (2) Failure of a parent to renew an agreement for a
30 school year shall not preclude a parent from renewing the

1 agreement for a subsequent school year if the student remains
2 an eligible student.

3 (i) Multiple agreements.--A parent may enter into separate
4 agreements under subsection (d) for each eligible student of the
5 parent. Not more than one lifeline scholarship account may be
6 established for an eligible student.

7 (j) Explanation.--Upon entering into an agreement under
8 subsection (d) or renewing an agreement under subsection (h),
9 the department shall provide the parent with a written
10 explanation of the authorized uses of the money in the lifeline
11 scholarship account and the responsibilities of the parent and
12 the department under the agreement and this article.

13 (k) Application and renewal period.--

14 (1) For the 2022-2023 school year, a parent may apply
15 between May 1, 2022, and June 1, 2022, for acceptance to the
16 program.

17 (2) For each school year thereafter, a parent may apply
18 or seek renewal between January 1 and April 1 for the
19 following school year.

20 (3) The department shall notify parents and school
21 districts of approved applications within 30 days of receipt
22 of an application.

23 Section 2004-L. Lifeline scholarship account.--

24 (a) Establishment.--If an agreement is entered into under
25 section 2003-L(d), the department shall establish a lifeline
26 scholarship account for the eligible student. The account shall
27 be administered by the department in accordance with this
28 article.

29 (b) Deposit of grant.--

30 (1) Upon establishment of a lifeline scholarship

1 account, the State Treasurer shall deposit a grant for that
2 school year in the scholarship account for the eligible
3 student in accordance with subsection (c). The amount of the
4 grant shall be as follows:

5 (i) For a student who is not a student with special
6 needs, the grant amount shall be equal to the total State
7 revenue received by all school districts minus total
8 State transportation subsidies received by all school
9 districts divided by the average daily membership of all
10 school districts based on the most recent annual
11 financial report published by the Department of
12 Education.

13 (ii) For an eligible student who is a student with
14 special needs for which expenditures have been reported
15 under section 1372(8), the grant amount shall be
16 calculated by multiplying the amount in subparagraph (i)
17 by the category weight multiplier assigned to the student
18 to determine the weighted special education student
19 headcount under section 2509.5(bbb).

20 (iii) For a student with special needs for which
21 expenditures are not reported under section 1372(8), the
22 grant amount shall be calculated using the Category 1
23 multiplier under section 2509.5(bbb).

24 (2) For an eligible student receiving a grant, the
25 amount of State subsidies paid by the Department of Education
26 to the resident school district shall be reduced by the grant
27 amount calculated for the eligible student.

28 (3) A student receiving a grant under this section shall
29 be included in the average daily membership of the student's
30 resident school district for the purpose of providing State

1 subsidies under Article XXV.

2 (4) Nothing in this section shall be construed to reduce
3 a school district's revenue originating from Federal or local
4 sources or sources other than State revenue.

5 (c) Installments.--The department shall deposit the money
6 for each grant on a schedule determined by the department in
7 consultation with the Department of Education.

8 (d) Disposition.--The following shall apply to money
9 remaining in a lifeline scholarship account:

10 (1) For money remaining in a lifeline scholarship
11 account at the end of a school year, the money may be carried
12 forward to an ensuing school year for the eligible student if
13 the agreement entered into under section 2003-L(d) is
14 renewed.

15 (2) Subject to paragraph (3), money remaining in a
16 lifeline scholarship account when an agreement entered into
17 under section 2003-L(d) is not renewed or is terminated shall
18 be repaid to the resident school district within 15 business
19 days of nonrenewal or termination.

20 (3) Money remaining in a lifeline scholarship account
21 after the eligible student graduates from high school may
22 only be used for qualified education expenses at an eligible
23 post-secondary institution for a two-year period after
24 graduation subject to the following:

25 (i) The parent or eligible student shall notify the
26 department of the student's intent to utilize money
27 remaining in the account for qualified education expenses
28 at an eligible post-secondary institution within 30 days
29 of graduation from high school.

30 (ii) If notification is not received within the 30-

1 day time period, the lifeline scholarship account shall
2 be terminated and the money remaining in the scholarship
3 account shall be repaid to the resident school district
4 within 15 days from the end of the notification period.

5 (iii) Upon the expiration of the two-year time
6 period under this paragraph, the lifeline scholarship
7 account shall be terminated and the money remaining in
8 the scholarship account shall be repaid to the resident
9 school district within 15 days from the expiration date.

10 Section 2005-L. Qualified education expenses.--

11 (a) General rule.--Money deposited in a lifeline scholarship
12 account may be used to pay for any of the following qualified
13 expenses incurred by or associated with the eligible student:

14 (1) Tuition, fees and uniforms required by a
15 participating entity.

16 (2) Textbooks or uniforms required by a participating
17 entity.

18 (3) Fees for tutoring or other teaching services
19 provided by a participating entity.

20 (4) Fees for a nationally norm-referenced test, advanced
21 placement or similar examination or standardized examination
22 required for admission to an institution of higher education
23 and career and technical education examination fees.

24 (5) Curriculum, textbooks or other instructional
25 materials.

26 (6) Hardware, software and Internet connectivity
27 associated with instruction or a qualifying expense described
28 in this subsection.

29 (7) If the eligible student is a student with a
30 disability, fees for special instruction or special services

1 provided to the eligible student, including occupational,
2 physical, speech and behavioral therapies.

3 (8) Costs associated with evaluation and identification
4 of special needs.

5 (9) Other valid educational expenses approved by the
6 department.

7 (b) Prohibitions.--A participating entity that receives a
8 payment for qualified education expenses authorized under
9 subsection (a) may not refund, rebate or otherwise directly
10 share any portion of the payment with the parent who made the
11 payment.

12 (c) Refund.--A participating entity shall deposit into the
13 lifeline scholarship account a refund for an item that is being
14 returned or an item or service that has not been provided
15 directly to the lifeline scholarship account of the eligible
16 student from which payment for the item or service was made.

17 (d) Payment system.--The department shall develop a system
18 that enables a parent to pay for services provided by
19 participating entities under the program by electronic money
20 transfer.

21 (e) Source of payment.--

22 (1) An individual may not deposit personal money into or
23 otherwise make gifts or contributions of private money to a
24 lifeline scholarship account.

25 (2) Nothing in this section shall be construed to
26 prohibit a parent or eligible student from paying for
27 qualified education expenses from a source other than the
28 lifeline scholarship account.

29 (f) Tax consequences and status of awards.--

30 (1) The money in a lifeline scholarship account is not

1 taxable income to the parent or eligible student.

2 (2) An award made to or funds expended from a lifeline
3 scholarship account may not be construed to be an
4 appropriation or financial assistance to the eligible
5 student's chosen school.

6 Section 2006-L. Duties of the department.

7 The department shall:

8 (1) Develop guidelines, in consultation with the
9 Department of Education, as necessary for the administration
10 of this article within 60 days of the effective date of this
11 section.

12 (2) Determine whether to solicit requests for proposals
13 from private financial management firms to manage some or all
14 parts of the program.

15 (3) In the department's discretion, deduct an amount
16 from the grants to lifeline scholarship accounts necessary to
17 pay the costs of overseeing the accounts and administering
18 the program up to a limit of 3% of the grants.

19 (4) Establish reasonable fees for private financial
20 management firms that manage the accounts based upon market
21 rates.

22 (5) Make payments to the accounts on a schedule to be
23 determined by the department, in consultation with the
24 Department of Education, each year of participation in the
25 program.

26 (6) Develop a system to allow parents to pay for
27 services by electronic funds transfer, including debit cards,
28 electronic payment systems or other means of electronic
29 payment that the department determines to be commercially
30 viable, cost effective and easily understandable and usable

1 by parents. The department shall not adopt a system that
2 exclusively requires parents to be reimbursed for out-of-
3 pocket expenses.

4 (7) Develop a process by which participating schools may
5 inform the department of their interest in participating in
6 the program and demonstrate their compliance with the
7 requirements of this article.

8 (8) Ensure that eligible students and their parents are
9 informed annually of the participating schools in the program
10 by posting a list of participating schools on the
11 department's publicly accessible Internet website by May 1,
12 2022, and by March 1 of each year thereafter.

13 Section 2007-L. Duties of the Auditor General.

14 The Auditor General shall:

15 (1) Conduct random audits of lifeline scholarship
16 accounts on an annual basis.

17 (2) Refer cases of suspected fraudulent misuse of
18 lifeline scholarship accounts to law enforcement agencies for
19 investigation.

20 (3) Notify the department of cases of suspected
21 fraudulent misuse that are referred to law enforcement.

22 (4) If a parent is found to have engaged in fraudulent
23 misuse of a lifeline scholarship account, the account shall
24 be terminated and the eligible student shall be ineligible
25 for future participation in the program.

26 (5) Upon a finding that a parent engaged in fraudulent
27 misuse of a lifeline scholarship account, the remaining money
28 in the lifeline scholarship account shall be repaid to the
29 resident school district within 15 business days.

30 (6) A parent may appeal the department's decision

1 regarding termination and student eligibility within 30 days
2 of issuance of the decision. The appeal shall be governed by
3 2 Pa.C.S. Chs. 1 (relating to general provisions), 5
4 (relating to practice and procedure) and 7 (relating to
5 judicial review).

6 Section 2008-L. Accountability standards for a participating
7 entity.

8 (a) Duties of participating entities.--A participating
9 entity shall:

10 (1) Hold a valid occupancy permit if required by the
11 municipality in which the participating entity is located.

12 (2) Comply with the nondiscrimination policies specified
13 in 42 U.S.C. § 1981 (relating to equal rights under the law)
14 and with section 1521.

15 (3) Comply with the provisions of sections 111 and
16 111.1.

17 (b) Financial accountability standards.--

18 (1) A participating entity shall provide parents with a
19 receipt for all qualifying expenses incurred by the
20 participating entity.

21 (2) The department may require a participating entity
22 that expects to receive at least \$10,000 in payments from
23 lifeline scholarship accounts during the school year to file
24 financial viability documentation. The financial viability
25 documentation may include:

26 (i) a surety bond payable to the Commonwealth in an
27 amount equal to the aggregate amount of money from the
28 lifeline scholarship accounts expected to be paid during
29 the school year on behalf of eligible students admitted
30 at the participating entity; or

1 (ii) financial information that demonstrates that
2 the participating entity has the ability to pay an
3 aggregate amount equal to the amount of money from the
4 lifeline scholarship accounts expected to be paid during
5 the school year on behalf of eligible students admitted
6 to the participating entity.

7 (c) Academic accountability standards.--

8 (1) A parent of an eligible student shall ensure that
9 the department is informed of the eligible student's
10 graduation from high school.

11 (2) The department shall:

12 (i) Ensure compliance with all student privacy laws,
13 including the Family Educational Rights and Privacy Act
14 of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

15 (ii) Administer an annual parental satisfaction
16 survey that shall ask parents of eligible students
17 participating in the program to express:

18 (A) The parent's satisfaction with the program.

19 (B) The number of years the eligible student has
20 participated in the program.

21 (C) The parent's opinions on other topics, items
22 or issues that the department determines would elicit
23 information about the effectiveness of the program.

24 (d) Participating entity autonomy.--

25 (1) For purposes of this article, a participating entity
26 shall be autonomous and is not an agent of the department or
27 the Commonwealth.

28 (2) Neither the department nor other State agency may
29 regulate the educational program of a participating entity
30 that accepts money from a lifeline scholarship account.

1 (3) The establishment of the program may not be
2 construed to expand the regulatory authority of the State,
3 the officers of the State or a school district to impose
4 additional regulations of a participating entity beyond those
5 necessary to enforce the requirements of the program.

6 Section 2009-L. Bar of certain participating entities.

7 (a) General rule.--The department may bar a participating
8 entity from participation in the program if the department
9 establishes that the participating entity has:

10 (1) routinely failed to comply with the accountability
11 standards established in section 2008-L; or

12 (2) failed to provide an eligible student with the
13 educational services funded by the eligible student's
14 lifeline scholarship account.

15 (b) Notice.--If the department bars a participating entity
16 from participation in the program, the department shall post the
17 decision on the department's publicly accessible Internet
18 website.

19 (c) Appeal.--A participating entity may appeal the
20 department's decision to bar its participation in the program
21 within 30 days of issuance of the decision. The appeal shall be
22 governed by 2 Pa.C.S. Chs. 1 (relating to general provisions), 5
23 (relating to practice and procedure) and 7 (relating to judicial
24 review).

25 Section 2010-L. Duties of resident school districts.

26 (a) School records.--A resident school district shall
27 provide a participating entity that has admitted an eligible
28 student participating in the program with a complete copy of the
29 student's school records immediately upon the student's
30 enrollment or when services in the participating entity begin,

1 subject to the Family Educational Rights and Privacy Act of 1974
2 (Public Law 90-247, 20 U.S.C. § 1232g).

3 (b) Transportation.--A resident school district shall
4 provide transportation for an eligible student to and from the
5 participating entity under the same conditions as the resident
6 school district provides transportation of other resident
7 students to nonpublic schools under section 1361. The resident
8 school district shall qualify for State transportation
9 reimbursement for each eligible student transported.

10 Section 2011-L. Legal proceedings.

11 (a) Liability.--No liability shall arise on the part of the
12 agency, the Commonwealth or a public school or school district
13 based on the award or use of a lifeline scholarship account
14 under this article.

15 (b) Challenges.--If any part of this article is challenged
16 in a State court as violating either the Constitution of the
17 United States or the Constitution of Pennsylvania, parents of
18 eligible students and students who previously had a lifeline
19 scholarship account shall be permitted to intervene as of right
20 in the lawsuit for the purposes of defending the program's
21 constitutionality. For the purposes of judicial administration,
22 a court may require that all parents file a joint brief but may
23 not require all parents to join a brief filed on behalf of a
24 named State defendant.

25 (c) Severability.--If any provision of this article or the
26 application thereof to any person or circumstance is held
27 invalid, the invalidity shall not affect other provisions or
28 applications of this article which can be given effect without
29 the invalid provision or application and to this end the
30 provisions of this article are declared to be severable.

1 Section 2. This act shall take effect immediately.