

PUBLIC SCHOOL CODE OF 1949 - OMNIBUS AMENDMENTS

Act of Jun. 25, 1997, P.L. 297, No. 30

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Session of 1997

No. 1997-30

HB 8

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for background checks of prospective employees, for school police and for residence and right to free school privileges; providing for juveniles incarcerated in adult facilities, for the education of disruptive students and for Commonwealth payments and capital subsidy payments to intermediate units; further prohibiting the possession of weapons; further providing for assignment of educational programs during expulsion periods, for school holidays, for technology grants, for the reimbursement for community colleges, for basic education funding, for payments to intermediate units and for special education payments and school performance incentives; providing for charter school grants and for education mentoring and dropout prevention programs; and making repeals.

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

Section 1. Section 111(e) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended December 19, 1990 (P.L.1362, No.211), is amended to read:

Section 111. Background Checks of Prospective Employes; Conviction of Employes of Certain Offenses.--* * *

(e) No person subject to this act shall be employed in a public or private school, intermediate unit or area vocational-technical school where the report of criminal history record information indicates the applicant has been convicted, within five (5) years immediately preceding the date of the report, of any of the following offenses:

(1) An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709 (relating to harassment and stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

[Section 3122 (relating to statutory rape).]

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child [born out of wedlock]).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials **and performances**).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(2) An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(3) An out-of-State or Federal offense similar in nature to those crimes listed in clauses (1) and (2).

* * *

Section 2. Section 778 of the act is amended to read:

Section 778. School Police Officers.--(a) Any school district may apply to any judge of the court of common pleas of the county within which the school district is situated to appoint such person or persons as the board of directors of the school district may designate to act as [policeman] **school police officer** for said school district. The judge, upon such application, may appoint such person, or so many of them as he may deem proper, to be such [policemen,] **school police officer** and shall note the fact of such appointment to be entered upon the records of the court. **The judge may, at the request of the school district, grant the school police officer the power to arrest as provided in subsection (c) (2), the authority to issue citations for summary offenses or the authority to detain students until the arrival of local law enforcement, or any combination thereof.**

(b) Every [policeman] **school police officer** so appointed shall, before entering upon the duties of his office, take and subscribe to the oath required by the seventh article of the Constitution, before an alderman or justice of the peace or prothonotary. Such oath shall be filed by the justice of the peace, alderman, or prothonotary among his papers, and a note made upon his docket of the fact of the oath having been taken.

(c) Such [policeman] **school police officer** so appointed shall severally possess and exercise all the [powers of a constable in this Commonwealth in enforcing the school laws of the Commonwealth in their respective districts, and in policing the grounds belonging to said school districts, and protecting the property thereof. The keeper of jails or lockups or station house in the county is required to receive all persons arrested by such policeman for the commission of any offense against the laws of this Commonwealth, upon or near to the ground occupied by said school district, to be dealt with according to law.] **following powers and duties:**

(1) **To enforce good order in school buildings, on school buses and on school grounds in their respective school districts. For purposes of this clause, the term "school bus" shall include vehicles leased by the school district to transport students and vehicles of mass transit used by students to go to and from school when the school police officer is responding to a report of an incident involving a breach of good order or violation of law.**

(2) **If authorized by the court, to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipality wherein the school property is located.**

(3) **If authorized by the court, to issue summary citations or to detain individuals until local law enforcement is notified.**

(d) Such [policeman] **school police officer** shall, when on duty, severally wear a metallic shield or badge with the words "School Police," and the name of the district for which appointed. Such shield shall always be worn in plain view when on duty except when employed as detective.

(e) The compensation of such [policemen] **school police officers** shall be paid by the school district for which the [policemen] **school police officers** are respectively appointed, as may be agreed upon between the board of school directors and the [policeman.] **school police officer.**

(f) **School districts and municipalities may enter into cooperative police service agreements pursuant to 42 Pa.C.S. § 8953(e) (relating to Statewide municipal police jurisdiction) to authorize the exercise of concurrent jurisdiction with local law enforcement within the municipality where the school or school district is located or within the municipality in which a school event or activity will take place.**

(g) **When acting within the scope of this section, school police officers shall, at all times, be employes of the school district and shall be entitled to all of the rights and benefits accruing therefrom.**

(h) **Nothing in this section shall be construed to preclude a school district from employing other security personnel as the school district deems necessary.**

Section 3. Sections 917.1-A and 919.1-A of the act are amended by adding subsections to read:

Section 917.1-A. Commonwealth Payments.--* * *

(g) **For the 1997-1998 school year, each intermediate unit shall receive the amount of its payment received under this section during the 1996-1997 school year.**

Section 919.1-A. Capital Subsidy.--* * *

(d) **Notwithstanding any provision of this act to the contrary, for the 1997-1998 school year, each intermediate unit shall receive the actual payment for capital subsidy which it received under this section and section 2502.6(b) during the 1996-1997 school year.**

Section 4. Section 1302 of the act, amended December 14, 1967 (P.L.859, No.381), is amended to read:

Section 1302. Residence and Right to Free School Privileges.--A child shall be considered a resident of the school district in which his parents or the guardian of his person resides. Federal installations are considered a part of the school district or districts in which they are situate and the children residing on such installations shall be counted as resident pupils of the school district. When a resident of any school district keeps in his home a child of school age, not his own, supporting the child gratis as if it were his own, such child shall be entitled to all free school privileges accorded to resident school children of the district, including the right to attend the public high school maintained in such district or in other districts in the same manner as though such child were in fact a resident school child of the district, and shall be subject to all the requirements placed upon resident school children of the district. Before [accepting] such child **may be accepted** as a pupil, [the board of school directors of the district may require] such resident [to] **shall file with the secretary of the board appropriate legal documentation to show dependency or guardianship or** a sworn statement that he is a resident of the district, that he is

supporting the child gratis, that he will assume all personal obligations for the child relative to school requirements, and that he intends to so keep and support the child continuously and not merely through the school term.

Section 5. The act is amended by adding a section to read:

Section 1306.2. Juveniles Incarcerated in Adult

Facilities.--(a) A person under twenty-one (21) years of age who is confined to an adult local correctional institution following conviction for a criminal offense who is otherwise eligible for educational services as provided under this act shall be eligible to receive educational services from the board of school directors in the same manner and to the same extent as a student who has been expelled pursuant to section 1318.

(b) A person under twenty-one (21) years of age who is confined to an adult local correctional institution following a charge for a criminal offense who is otherwise eligible for educational services as provided under this act shall be eligible to receive services from the board of school directors in the same manner and to the same extent as a student who has been placed in an alternative education program for disruptive students.

(c) The department shall effectuate necessary procedures for the transfer of funds from the school district of residence to the school district in which the local correctional institution is located. In effectuating the transfer of funds, the department may deduct the appropriate amount from the Basic Education Funding allocation of any school district which had resident students who were provided educational services in the local correctional facility.

(d) For purposes of this section, the term "convicted" means a finding of guilty by a judge or a jury or the entry of a plea of guilty or nolo contendere for an offense under 18 Pa.C.S. (relating to crimes and offenses) whether or not judgment of sentence has been imposed.

(e) For purposes of this section, a "local correctional institution" shall include any jail, prison or detention facility operated by a county or jointly by more than one county or by a municipality. The term does not include any facility used for the detention or confinement of juveniles.

Section 6. Sections 1317.2, 1303-A and 1304-A of the act, added June 30, 1995 (P.L.220, No.26), are amended to read:

Section 1317.2. Possession of Weapons Prohibited.--(a)

Except as otherwise provided in this section, a school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought **onto or is in possession of** a weapon [onto] **on** any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area vocational-technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area vocational-technical school may recommend [discipline short of expulsion] **modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with**

Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting, if the entry on school premises is authorized by school authorities.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A.

(g) As used in this section, the term "weapon" shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

Section 1303-A. Reporting.--(a) The office shall conduct a one-time survey of all school entities to determine the number of incidents involving acts of violence on school property and all cases involving possession of a weapon by any person on school property which occurred within the last five (5) years. The survey shall be based on the best available information provided by school entities.

(b) All school entities shall report all new incidents involving acts of violence [or], possession of a weapon **or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64) , known as "The Controlled Substance, Drug, Device and Cosmetic Act," or possession, use or sale of alcohol or tobacco** by any person on school property at least [twice] **once** a year, as provided by the office, on a form to be developed and provided by the office. The form shall include:

- (1) Age or grade of student.
- (2) Name and address of school.
- (3) Circumstances surrounding the incident, including type of weapon, **controlled substance, alcohol or tobacco.**
- (4) Sanction imposed by the school.
- (5) Notification of law enforcement.
- (6) Remedial programs involved.

(7) Parental involvement required.

(8) Arrests, convictions and adjudications, if known.

If a person other than a student is involved, the report shall state the relationship of the individual involved to the school entity.

(c) All school entities shall develop a memorandum of understanding with local law enforcement which sets forth procedures to be followed when an incident involving an act of violence or possession of a weapon by any person occurs on school property. Law enforcement protocols shall be developed in cooperation with local law enforcement and the Pennsylvania State Police.

Section 1304-A. Sworn Statement.--(a) Prior to admission to any school entity, the parent, guardian or other person having control or charge of a student shall, upon registration, provide a sworn statement or affirmation stating whether the pupil was previously **or is presently** suspended or expelled from any public or private school of this Commonwealth or any other state for an act or offense involving weapons, alcohol or drugs or for the wilful infliction of injury to another person or for any act of violence committed on school property. The registration shall **include the name of the school from which the student was expelled or suspended for the above-listed reasons with the dates of expulsion or suspension and shall be** maintained as part of the student's disciplinary record.

(b) Any wilful false statement made under this section shall be a misdemeanor of the third degree.

Section 7. Section 1502(a) of the act, amended May 6, 1996 (P.L.150, No.28), is amended to read:

Section 1502. Days Schools not to be Kept Open.--(a) Except as provided in subsection (c), no school shall be kept open on any Saturday for the purpose of ordinary instruction, except when Monday is fixed by the board of school directors as the weekly holiday, or on Sunday, Memorial Day, Fourth of July, [or] Christmas, **Thanksgiving, the First of January and up to five additional days designated as local holidays in the adopted school calendar by the board of school directors as official local school district holidays**, nor shall any school be kept open in any district during the time of holding the teachers' institute for such district. **The board of school directors may cancel any day designated as a local holiday in the event of a weather emergency or natural disaster.**

* * *

Section 8. Section 1502-A of the act is amended by adding a definition to read:

Section 1502-A. Definitions.--As used in this article,

* * *

"Community education council" shall mean a nonprofit institutionally neutral educational organization, governed by a community-based board of directors, which serves to provide access to post-secondary education and training resources for citizens in communities that have a shortage of adult education, continuing education and/or post-secondary education services.

* * *

Section 9. Sections 1503-A and 1504-A of the act, added July 11, 1996 (P.L.633, No.107), are amended to read:

Section 1503-A. Basic Education Grants.--(a) Grants shall be allocated to school districts **and to area vocational-technical schools** by the department from funds appropriated for this purpose. A nonpublic school, [an area vocational-technical school,] an intermediate unit or local

library may participate in the grant process through a partnership with a school district.

(b) Grants shall be used to:

(1) Improve the quality and quantity of **educational** technology [within the school by purchasing technology and software] in accordance with [standards] **minimum standards and specifications** developed by the department and the Office of Administration.

(2) Equip schools **and other entities** with the appropriate [local area networking (LAN) and wide area network (WAN) technologies so that schools can connect to] **networking and Internet technologies to build** the Pennsylvania Education Network.

(3) Provide for the training of teachers and staff in ways to effectively integrate the technology with the curriculum.

(4) **Begin implementing the regional action plans that were developed as part of the shared vision and action plan project activities.**

(5) **Improve the quality of technology services at the State Library of Pennsylvania.**

(c) (1) Grants shall be allocated through a grant review process established by the Secretary of Education.

(2) The secretary shall establish matching requirements for grant recipients with a market value/income aid ratio, as defined in section 2501 of this act, which is less than .4000. Grant recipients with a market value/income aid ratio which is equal to or greater than .7000 shall be eligible for larger grant awards as determined by the secretary. A school district of the first class shall be eligible for a grant award which shall not exceed three million dollars (\$3,000,000), and a school district of the first class A shall be eligible for a grant award which shall not exceed six hundred thousand dollars (\$600,000), unless the grant awards are included within a partnership.

(2.1) For the 1997-1998 school year, a school district shall be eligible for a grant in the same amount as a school district was eligible to receive for the 1996-1997 school year as provided in clause (2).

(2.2) For the 1997-1998 school year, an area vocational-technical school shall be eligible to receive from the amount of three million dollars (\$3,000,000) appropriated for the purposes of this clause a grant in the same manner as a school district as provided in clause (2). If the sum provided in this clause is not sufficient to pay in full the total amount to which a qualifying area vocational-technical school is entitled to receive, the allocation shall be proportionately reduced to the extent necessary to bring the aggregate of the allocations within the limit of the amount provided in this clause.

(3) The application for a grant shall be made at such time and in such form as the Secretary of Education may require.

(4) [Priority will be given to those applications which consist of partnerships.] **In order to receive funds, a school district or area vocational-technical school must form a partnership with one or more of the following: a political subdivision, a school district, an area vocational-technical school, an intermediate unit, a nonpublic school, a local library, an independent institution of higher education, a State-owned institution, a State-related institution, a community education council or any other entity approved by the Department of Education. Exceptions to this requirement may be**

requested in the application where the applicant school district or area vocational-technical school justifies why it is better for the applicant to apply as a separate entity.

Section 1504-A. Higher Education Funding.--(a) The department and the Office of Administration shall establish management teams to provide direction and oversight and to distribute funds appropriated for the researching, planning and development of the Pennsylvania Education Network which [shall] **can include when appropriate**, but not be limited to, the following focus areas:

(1) Documenting public and private technology resources, including, but not limited to, existing telecommunications networks, video conferencing capabilities and distance education courses and identifying technology transfer opportunities that can be leveraged for the Pennsylvania Education Network.

(2) Establishing technology [test-bed sites] **infrastructure investment grants** to develop educational content and [evaluate] **implement Pennsylvania Education Network strategies and connectivity by using** competing technologies and methodologies.

(i) **Funds for infrastructure investment grants shall be distributed through a grant application at such time and in such form as the Secretary of Education may require.**

(ii) **Applicants may include public and private institutions of higher education, community education councils, not-for-profit organizations in Pennsylvania and any other entity approved by the Department of Education.**

(iii) **Priority shall be given to applications consisting of partnerships.**

(3) [Developing] **Implementing** a shared Statewide vision and strategic plan for building the Pennsylvania Education Network.

(4) **Developing methods and resources to ensure educators are able to use the technology effectively with the curriculum.**

(b) The management teams shall be comprised of representatives from State-owned institutions, State-related institutions, community colleges and independent [colleges and universities] **institutions of higher education** in Pennsylvania, intermediate units [and representatives from the Commonwealth], **community education councils and representatives from other public and not-for-profit organizations in Pennsylvania.**

(c) [Each team shall be responsible for defining the scope of work, goals, objectives, task assignments and budget for its respective focus area.] **Project managers will be nominated by the institutions in subsection (b). Prospective project managers shall be reviewed and selected jointly by the department and the Office of Administration.**

(d) [(1) Funds] **Each management team shall be responsible for defining the scope of work, goals, objectives, task assignment and budget for its respective focus area. Funds for management teams shall be distributed through [a request for proposal process which will be scored based on merit.] an application to the Office of Administration and the department, to be approved through a joint review process.**

[(2) Eligible applicants shall include the State System of Higher Education, the State-related universities, including the Pennsylvania College of Technology, community colleges and independent colleges and universities.

(3) Priority shall be given to applications consisting of partnerships.]

(e) Each team manager shall report to and shall be held accountable by the Secretary of Education and the Secretary of

Administration or their designee, the form and manner to be determined by the Secretary of Education.

Section 10. Section 1913-A(b)(1.4) of the act, amended July 11, 1996 (P.L.633, No.107), is amended to read:

Section 1913-A. Financial Program; Reimbursement or Payments.--* * *

(b) * * *

(1.4) The equivalent full-time student reimbursement of a community college shall be the sum of credit course, noncredit course and stipend reimbursements. These reimbursements shall be calculated using a reimbursement factor of one thousand and forty dollars (\$1,040) for the 1993-1994 fiscal year, of one thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year and of one thousand one hundred eighty dollars (\$1,180) for the 1995-1996 fiscal year and one thousand and two hundred and ten dollars (\$1,210) for the 1996-1997 fiscal year **and one thousand two hundred sixty dollars (\$1,260) for the 1997-1998 fiscal year** and for each year thereafter and shall be determined as follows:

(i) Credit course reimbursement shall be calculated by multiplying the reimbursement factor by the number of equivalent full-time students enrolled in credit courses as determined by an audit to be made in a manner prescribed by the State Board of Education.

(ii) Noncredit course reimbursement shall be calculated as follows:

(A) eighty percent (80%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1993-1994 fiscal year, as determined by the audit referred to in paragraph (i);

(B) seventy percent (70%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1994-1995 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i); or

(C) one hundred percent (100%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit public safety courses that provide training for volunteer firefighters and emergency medical services for the 1995-1996 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i).

(iii) Stipend reimbursement on account of a community college's operating costs for all equivalent full-time students enrolled in the following categories of two-year or less than two-year occupational or technical programs, shall be the sum of the following:

(A) One thousand one hundred dollars (\$1,100) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1995-1996 and each year thereafter, the reimbursement rate shall be calculated at one thousand one hundred seventy-five dollars (\$1,175) per full-time equivalent student enrolled in advanced technology programs. Advanced technology programs are programs using new or advanced technologies which hold promise for creating new job opportunities, including such fields as robotics, biotechnology, specialized materials and engineering and engineering-related programs.

(B) One thousand dollars (\$1,000) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1995-1996 and each year thereafter, the reimbursement rate shall be calculated at one thousand

seventy-five dollars (\$1,075) per full-time equivalent student enrolled in programs designated as Statewide programs. A Statewide program is a program which meets one or more of the following criteria:

(I) Program enrollment from out-of-sponsor area is twenty per cent or more of the enrollment for the program.

(II) A consortial arrangement exists with another community college to cooperatively operate a program or share regions in order to avoid unnecessary program duplication.

(C) Five hundred dollars (\$500) per full-time equivalent student enrolled in other occupational or technical programs. For the fiscal year 1995-1996 and each year thereafter, the reimbursement rate shall be calculated at five hundred seventy-five dollars (\$575) per full-time equivalent student enrolled in other occupational or technical programs.

* * *

Section 11. The act is amended by adding an article to read:

ARTICLE XIX-C.

DISRUPTIVE STUDENT PROGRAMS.

Section 1901-C. Definitions.--For purposes of this article, the following terms shall have the following meanings:

(1) "Alternative education program" or "program." Any applicant's program applying for funds under this article, which program is implemented by a school district, an area vocational-technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum. Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts shall adopt a policy for periodic review of students placed in the alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.

(2) "Applicant." A school district or a combination of school districts which applies for funds under this article.

(3) "Community resources." Those agencies and services for children and youth provided by the juvenile court and the Department of Health and the Department of Public Welfare and other public or private institutions.

(4) "Department." The Department of Education of the Commonwealth.

(5) "Disruptive student." A student who poses a clear threat to the safety and welfare of other students or the school staff, who creates an unsafe school environment or whose behavior materially interferes with the learning of other students or disrupts the overall educational process. The disruptive student exhibits to a marked degree any or all of the following conditions:

(i) Disregard for school authority, including persistent violation of school policy and rules.

(ii) Display or use of controlled substances on school property or during school-affiliated activities.

(iii) Violent or threatening behavior on school property or during school-affiliated activities.

(iv) Possession of a weapon on school property, as defined under 18 Pa.C.S. § 912 (relating to possession of weapon on school property).

(v) Commission of a criminal act on school property or during school-affiliated activities.

(vi) Misconduct that would merit suspension or expulsion under school policy.

(vii) Habitual truancy.

No student who is eligible for special education services pursuant to the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) shall be deemed a disruptive student for the purposes of this act, except as provided for in 22 Pa. Code § 14.35 (relating to discipline).

(6) "School." Any school classified by the Department of Education as a middle school, junior high school, senior high school or area vocational-technical school.

(7) "Secretary." The Secretary of Education of the Commonwealth.

Section 1902-C. Applications.--Applicants shall submit applications at the time, in the manner and containing or accompanied by such information as the department may prescribe but, in any case, shall document the following:

(1) The program is developed in consultation with the faculty and administrative staff of the school and parents and members of the community.

(2) That the applicants have established policies to identify those students who are eligible for placement in the program and that the placement of such students will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c) (relating to hearings). Notice of the hearing should precede placement in the program. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) That school personnel assigned to the alternative education program for which funding is sought under this article possess a Level I or Level II Pennsylvania certificate as provided for in 22 Pa. Code Ch. 49 (relating to certification of professional personnel).

(4) The program provides participating students with a course of instruction which recognizes their special needs, prepares them for successful return to a regular school curriculum and/or completion of the requirements for graduation.

(5) The program is used only when other established methods of discipline have been utilized and have failed unless the seriousness of the student's behavior warrants immediate placement.

(6) A determination of the scope, type and severity of student disruption and a survey of community and school resources available to the applicant for the remediation of student disruption.

(7) A description of the educational program to be provided. The program may modify the requirements established in sections 1327, 1501 and 1504 insofar as they are related to the number of days or hours of instruction. The application shall describe how the student will make normal academic progress and meet requirements for graduation.

Section 1903-C. Alternative Education Grants.--The department shall establish grants for alternative education programs which meet the requirements of this article, to include the following:

(1) An application procedure for grant eligibility.

(2) A review process to annually evaluate the effectiveness of alternative education programs, to include an annual report to the Education Committee of the Senate and the Education Committee of the House of Representatives.

(3) The department shall determine an annual grant amount calculated by dividing the amount appropriated by the estimated average number of students enrolled in eligible programs, further divided by thirty-six. Each applicant shall be eligible to receive this grant amount, per average number of pupils enrolled, per week of participation in an eligible program. Commonwealth grants shall be limited to funds appropriated for this program but in no event shall a school district receive funding for more than two per cent (2%) of a school district's average daily membership as defined in section 2501 of this act for students enrolled in grades seven through twelve.

Section 1904-C. Construction of Article.--Nothing contained in this article shall be construed to supersede or preempt any provisions of a collective bargaining agreement negotiated by a school entity and an exclusive representative of the employees in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act."

Section 1905-C. Retroactivity.--This article shall be retroactive to July 1, 1996.

Section 12. Section 2501 of the act is amended by adding definitions to read:

Section 2501. Definitions.--For the purposes of this article the following terms shall have the following meanings:

* * *

(22) "Immediately Preceding School Year." The school year one year prior to the current school year.

(23) "Next Preceding School Year." The school year two years prior to the current school year.

Section 13. The act is amended by adding sections to read:

Section 2502.33. Basic Education Funding for 1996-1997 School Year.--For the 1996-1997 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) An amount equal to the basic education funding allocation for the 1995-1996 school year pursuant to section 2502.31.

(2) A base supplement payable to qualifying school districts.

(i) To qualify for the base supplement, a school district's 1997-1998 market value/income aid ratio must be equal to or greater than four thousand ten-thousandths (0.4000).

(ii) The base supplement is calculated for qualifying school districts as follows: multiply the school district's 1997-1998 market value/income aid ratio times its 1996-1997 average daily membership; multiply this product times sixty-six million dollars (\$66,000,000); divide the resultant product by the sum of the products of the 1997-1998 market value/income aid ratio times the 1996-1997 average daily membership for all qualifying districts.

(3) A growth supplement payable to qualifying school districts.

(i) To qualify for the growth supplement, a school district's average daily membership must have increased between the 1994-1995 and 1996-1997 school years.

(ii) The growth supplement is calculated for qualifying school districts as follows: if the increase in average daily membership between the 1994-1995 and 1996-1997 school years is equal to or greater than four and five-tenths per centum (4.5%), multiply two hundred dollars (\$200) times the increase in average daily membership; if the increase is less than four and five-tenths per centum (4.5%), multiply one hundred dollars (\$100) times the increase in average daily membership.

(4) Each school district will be guaranteed a minimum increase to be calculated as follows:

(i) Each school district with a 1997-1998 market value/income aid ratio equal to or greater than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3) and (4) will equal at least four per centum (4%) of the amount in clause (1).

(ii) Each school district with a 1997-1998 market value/income aid ratio less than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3) and (4) will equal at least one per centum (1%) of the amount in clause (1).

Section 2502.34. School Performance Incentives.--For the 1997-1998 fiscal year, a minimum of ten per centum (10%) of the difference between the total Basic Education Funding appropriation for the prior fiscal year and the current fiscal year, as provided in Article XXV, shall be directed for School Performance Incentives as established by the department. For the 1998-1999 fiscal year and each fiscal year thereafter, funding for School Performance Incentives shall be as provided in the General Appropriation Act.

Section 14. Section 2509.1(d) of the act, amended June 30, 1995 (P.L.220, No.26), is amended and the section is amended by adding a subsection to read:

Section 2509.1. Payments to Intermediate Units.--* * *

(b.5) Up to twelve million dollars (\$12,000,000) may be utilized for programs administered and operated during the 1997-1998 school year for institutionalized children by intermediate units as established in subsection (b.1).

* * *

(d) (1) For the 1991-1992 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid fifty percent (50%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with exceptionalities, as approved by the Department of Education for the 1990-1991 school year. For the 1991-1992 school year, each intermediate unit not coterminous with a school district which operates all the special education programs for children with disabilities for its constituent school districts shall be paid ten percent (10%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with disabilities, as approved by the Department of Education for the 1990-1991 school year. For the 1992-1993 and the 1993-1994 school years up to and including the 1994-1995 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid twenty-five percent (25%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for children

with exceptionalities, as approved by the Department of Education for the 1990-1991 school year.

(2) For the 1995-1996 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid a proportionate share of twenty-nine million nine hundred thousand dollars (\$29,900,000) based on the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with exceptionalities, as approved by the Department of Education for the 1990-1991 school year.

(3) For the 1996-1997 **and 1997-1998** school [year] **years**, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid a proportionate share of twenty million six hundred thousand dollars (\$20,600,000) based on the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with exceptionalities, as approved by the Department of Education for the 1990-1991 school year.

(4) For the [1997-1998] **1998-1999** school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid a proportionate share of ten million three hundred thousand dollars (\$10,300,000) based on the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with exceptionalities, as approved by the Department of Education for the 1990-1991 school year.

* * *

Section 15. Section 2509.5 of the act is amended by adding subsections to read:

Section 2509.5. Special Education Payments to School Districts.--* * *

(1) **During the 1997-1998 school year, each school district shall be paid:**

(1) **an amount to be determined by multiplying fifteen percent (15%) of its school-age average daily membership by one thousand one hundred fifty dollars (\$1,150); and**

(2) **an amount to be determined by multiplying one percent (1%) of its school-age average daily membership by thirteen thousand four hundred fifty dollars (\$13,450).**

(m) **During the 1997-1998 school year, up to ten million one hundred seven thousand dollars (\$10,107,000) of the funds appropriated to the Department of Education for special education shall be available to provide supplemental funding for special education to school districts which operate special education programs. Only school districts that qualify under the provisions of subsection (n) will be eligible to receive this supplemental special education funding.**

(n) **School districts will qualify for supplemental payments under subsection (m) if:**

(1) (i) **the school district's special education expenditures for the 1994-1995 school year, as a percentage of the sum of the school district's 1994-1995 school year expenditures for regular education, vocational-technical education and special education, are equal to or greater than the special education expenditures of all school districts for the 1994-1995 school year, as a percentage of the sum of the 1994-1995 school year expenditures of all school districts for regular education, vocational-technical education and special education; and**

(ii) **the school district's market value/income aid ratio for the 1996-1997 school year is equal to or greater than .6000; and**

(iii) the school district's equalized millage for the 1994-1995 school year is equal to or greater than 21.0; or

(2) The school district satisfies the criterion set forth in clause (1)(i), does not satisfy the criterion set forth in clause (1)(ii) but the school district's equalized millage for the 1994-1995 school year is equal to or greater than 25.2; or

(3) The school district does not satisfy the criteria of clause (n)(1) or (2) but does satisfy the following:

(i) the number of children in low-income families in 1995 is equal to or greater than fifteen percent (15%) of the school district's 1995-1996 school year average daily membership; and

(ii) the school district's market value/income aid ratio for the 1996-1997 school year is equal to or greater than .7000.

(o) Qualifying school districts will receive an additional twenty percent (20%) of the amount calculated at subsection (1)(1) of this section. This amount shall be paid pursuant to the payment schedule established in subsection (c) of this section.

During the 1997-1998 school year, however, no school district shall receive less payment under subsections (1) and (m) than the amount of the payments the school district received during the 1996-1997 school year under subsections (j)(3) and (k) of this section.

Section 16. The act is amended by adding a section to read:

Section 2509.11. Eligible Young Children.--(a) Beginning with the 1997-1998 school year, programming for children over the age established for an eligible young child as defined in this section shall be paid for from funds appropriated under sections 2509, 2509.1 and 2509.5 and their successor provisions. Funds appropriated for early intervention services for eligible young children shall not be used for this programming.

(b) As used in this section, "eligible young child" shall mean a child who is younger than the earliest admission age to a school district's kindergarten program for children five (5) years of age; or when no kindergarten program is provided, the admission age for beginners; and at least three (3) years of age and who meets any of the following criteria:

(1) The child has any of the following physical or mental disabilities: autism/pervasive developmental disorder, serious emotional disturbance, neurological impairment, deafness/hearing impairment, specific learning disability, mental retardation, multi-handicap, other health impairment, physical disability, speech impairment or blindness/visual impairment.

(2) The child is considered to have a developmental delay as defined by regulations of the State Board of Education and the standards of the Department of Education.

Section 17. Section 2541 of the act is amended by adding a subsection to read:

Section 2541. Payments on Account of Pupil Transportation.--
* * *

(e) School districts and intermediate units that provide transportation for any eligible young child as defined in section 2509.11 shall receive payments for this expense from funds appropriated under this section and section 2509.1.

Section 18. Section 2561(5) of the act, added December 8, 1959 (P.L.1713, No.626), is amended to read:

Section 2561. Tuition Charges for Pupils of Other Districts.--A school district or vocational school district receiving elementary or high school pupils or vocational or other extension education pupils who are residents of another school district or another vocational school district shall compute the tuition charges as follows:

* * *

(5) A school district shall compute the tuition charges for pupils who are residents of another school district for budgetary purposes at the beginning of each school year, and shall use the expenses of the next preceding school year as a basis for such computation. At the end of each school year, the tuition charges shall again be computed and be based on the actual expenses **for the school year immediately preceding** and the tuition charges for non-resident pupils shall then be adjusted in accordance with this latter computation. The school district in which the non-resident pupil is a legal resident shall pay the tuition charges in accordance with the computation based upon [the] **these** actual expenses.

* * *

Section 19. Sections 2595 and 2597 of the act are repealed.

Section 20. The act is amended by adding sections to read:

Section 2597.1 Education Mentoring and School Dropout Prevention Programs.--The General Assembly finds and declares that large numbers of students need additional support in order to be successful in school, graduate and become productive citizens of this Commonwealth and that too many students leave school without the benefits of positive adult role models, career goals or skills needed to support strong families and communities. It is the intent of this section and sections 2597.2 through 2597.6 to promote the development of educational mentoring programs to provide positive adult role models to students, establish a dropout prevention grant program to reduce the number of school dropouts and to promote the collection of information on dropouts for the purpose of developing local programs designed to prevent current students from dropping out.

Section 2597.2. Program Established.--The Department of Education shall establish education mentoring and school dropout prevention programs.

Section 2597.3. Eligible Grant Applicants.--Applications for grants may be submitted by school districts and nonprofit community-based organizations. Community-based organizations must demonstrate that the program will operate in collaboration with a school district, intermediate unit or area vocational-technical school.

Section 2597.4. Program Requirements.--Services and programs may be provided to students in grades kindergarten through twelve. Services and programs shall include the following:

(1) **Education Mentoring Program.** This program is to establish planned activities to build sustained relationships between students and adult mentors. Mentors are to be recruited from various sources, including business, professional, religious, higher education, senior citizen organizations and the local community. Program components are to include:

- (i) Screening and assignment of mentors.
- (ii) Orientation and training of mentors.
- (iii) Ongoing supervision and support.
- (iv) Matching mentors with students.
- (v) Follow-up activities.

(2) **Dropout Prevention Programs.** Services and programs shall include the following:

- (i) Academic coursework.
- (ii) Remedial education.
- (iii) Other courses required for graduation.
- (iv) Vocational education and school-to-work transition.
- (v) Programs of employment and training and related services, counseling and assessment.

- (vi) Involvement of parents and guardians of students and individuals enrolled in dropout prevention programs.
- (vii) Public information and outreach activities.
- (viii) Human, social and community services.
- (ix) Mentoring.
- (x) Partnerships with business.
- (xi) Community service.
- (xii) Antitruancy and attendance improvement strategies.
- (xiii) Peer mediation and conflict resolution programs.

Section 2597.5. Criteria for Awarding Grants.--(a) In awarding grants, the Secretary of Education shall be guided by the criteria set forth in subsections (b) and (c).

(b) Education mentoring is to be measured by the anticipated results for new programs of education mentoring or actual results for existing programs which:

(1) Reflect satisfactory improvements in academic achievement.

(2) Result in improvements in transition into post-secondary education, job training and employment among mentored students.

(3) Result in reductions in truancy, disciplinary referrals and dropout rates of students enrolled in mentoring programs.

(4) Demonstrate a significant need for mentoring services in terms of numbers of students requiring mentors.

(5) Demonstrate the cost-effective use of State funding.

(6) Demonstrate maximum use of local resources to maximize the numbers of students served by the mentoring program.

(c) Dropout prevention is to be measured by:

(1) The extent to which dropout rates in the school district exceed the Statewide average dropout rate.

(2) The program effectiveness in prior years if the grant application is intended to provide funding for programs already in existence, expressed in terms of:

(i) A decline in both the number and percentage of students leaving school prior to graduation.

(ii) Improvement in the promotion rate, attendance rate and academic achievement of students enrolled in the program.

(3) The anticipated results of new programs, expressed in terms of:

(i) A decline in both the number and percentage of students leaving school prior to graduation.

(ii) Improvement in the promotion rate, attendance rate and academic achievement of students enrolled in the program.

(4) The extent to which the school district program is linked to those of other relevant service providers, such as literacy councils, area vocational-technical schools, post-secondary educational and training institutions, private industry councils, social service agencies and community-based organizations.

(5) The number of dropouts in the school district.

Section 2597.6. Duties and Responsibilities of the Secretary of Education.--(a) The Secretary of Education shall develop applications for grants and make them available to school districts and nonprofit community-based organizations, shall develop any regulations, guidelines or standards required for the implementation of this act and shall review all grant applications and make grants from funds appropriated for this purpose.

(b) The Secretary of Education shall prepare a report by the first day of February of each year which must, at a minimum, contain the following:

(1) Number of students leaving school without graduating.

- (2) Grade levels at the time of their withdrawal from school.
- (3) Age at the time of their withdrawal from school.
- (4) Reasons for withdrawing from school.
- (5) The post-withdrawal activities of individuals who left school prior to graduation.
- (6) Numbers of students enrolled in dropout prevention and mentoring programs.
- (7) An evaluation of programs provided in the prior school year and their effectiveness.

(c) Notwithstanding any provision to the contrary, no one school district or a combination of a school district and a community organization shall receive more than ten percent (10%) of the total funds available under this program established by the Secretary of Education in any one school year to provide services within a single school district.

Section 2598. Charter School Grants.--(a) The Secretary of Education shall allocate grants for planning to eligible applicants from funds appropriated for this purpose. Planning grant applications shall be filed on a form and by a date determined by the Secretary of Education. The amount of a grant may vary depending on the size and scope of the planning needed by the applicant. The application shall address the manner in which the applicant plans to operate a charter school.

(b) Eligible applicants shall include an individual; one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations); any firm, corporation, association, partnership or any combination thereof.

(c) The applicant shall include a copy of a letter informing the local board of school directors of the school entity of the application for the planning grant if the location of the proposed charter school is known.

Section 21. The act is amended by adding an article to read:

**ARTICLE XXVI-H
POST-SECONDARY DEGREES.**

Section 2601-H. Power to Confer Degrees.--Notwithstanding the provisions of section 305 of the act of December 19, 1990 (P.L.834, No.198) , known as the "GAA Amendments Act of 1990," the Department of Education may grant a certificate of authority to a for-profit corporation as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations) authorizing the conferring of baccalaureate degrees in the arts, science, philosophy or literature, but only upon students who have completed a college or university course normally covering four (4) years, or such other degrees at the associate, baccalaureate or advanced level as may be specified in the certificate of authority. Certificates of authority under this section shall be granted in accordance with the provisions of 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries). The qualifications of admission to these four-year courses or to advanced classes in these courses shall be not less than four (4) years of academic or high school preparation, or its equivalent, and shall be subject to the standards promulgated by the State Board of Education.

Section 22. (a) The following acts or parts of acts are repealed:

Act of July 10, 1987 (P.L.284, No.49), entitled "An act promoting the development of programs to prevent students from dropping out of school."

Act of July 2, 1993 (P.L.248, No.45), known as the Educational Resource Sharing Through Distance Learning Act.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 23. This act shall take effect as follows:

(1) The amendment or addition of Article XIX-C and sections 2501 and 2561(5) of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect July 1, 1997, or immediately, whichever is later.

APPROVED--The 25th day of June, A. D. 1997.

THOMAS J. RIDGE