

PRIVATE LICENSED SCHOOLS ACT - OMNIBUS AMENDMENTS

Act of Nov. 27, 2019, P.L. 753, No. 110

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No. 2019-110

SB 456

AN ACT

Amending the act of December 15, 1986 (P.L.1585, No.174), entitled "An act defining and providing for the licensing and regulation of private schools; establishing the State Board of Private Licensed Schools; imposing penalties; and making repeals," further providing for definitions, for State Board of Private Licensed Schools, for powers and duties of board, for application for license, for license fees and for requirements for licensure and operation; providing for multibranch training schools and for institutional grants authority; further providing for promulgation of rules; and repealing provisions relating to existing licenses to remain in force and transfer of personnel, etc.

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

Section 1. The definitions of "adequate correction service," "multibranch training school" and "private licensed school" in section 2 of the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act, are amended and the section is amended by adding definitions to read:

Section 2. Definitions.

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

["Adequate correction service." The proper receipt and prompt correction of all home-study tests and materials, with appropriate written comments and suggestions for correction of errors and apparent weaknesses, and the prompt return of the corrected materials to students concerned.]

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"Branch facility." A facility of a private licensed school when all of the following occur:

(1) The facility has the same ownership, management or control as that of the private licensed school.

(2) The curriculum offered at the facility is substantially the same as the curriculum offered at the private licensed school.

(3) The number of tuition-paid students enrolled at each facility does not exceed 50 per class.

(4) The facility is administratively an integral part of the private licensed school.

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"Distance education." Instruction offered by any means where the student and faculty member are in separate physical locations so that in-person communication is absent and communication is accomplished instead by one or more technological media. The term includes, but is not limited to, real-time or delayed interaction using voice, video, data or text, including instruction provided online, via correspondence or via interactive video. Instruction provided via synchronous video from an institution in this Commonwealth to additional campus sites of the same institution in this Commonwealth is

not considered distance education. The term does not include independent study or instruction which is not instructor led.

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"Multibranch training school." A [business corporation] **school** licensed to do business in Pennsylvania having [more than] **at least** one branch facility at which instruction is offered to the general public for a fee. [A branch facility shall mean a facility of a licensed school when all of the following occur:

(1) The facility has the same ownership, management or control as that of the licensed school.

(2) The curriculum offered at such facility is substantially the same as the curriculum offered at the licensed school.

(3) The number of tuition-paid students enrolled at each such facility does not exceed 50 per class.

(4) The facility is located within the same county and is administratively an integral part of the licensed school. No additional license fees or bond shall be required of any such facility, provided that the physical plant of each such facility is approved by the board.]

"Private licensed school." A school or classes operated for profit or tuition that provides resident instruction to prepare an individual to pursue an occupation in the skilled trades, industry or business, or systematic instruction by [correspondence or by telecommunication] **distance education** in a field of study. It shall not include a private academic school as defined in [the act of June 25, 1947 (P.L.951, No.401), entitled, as amended, "An act defining and providing for the licensing and regulation of private academic schools; conferring powers and imposing duties on the State Board of Private Academic Schools; and imposing penalties"] **section 2 of the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act;** a school maintained or a class conducted for training for the vocation of homemaking or to give training in public and other service occupations; a barber school; a school of cosmetology; a flight school; a private tutorial school, including, but not limited to, a school of music or dance; an institution granting a degree other than those approved to award the degree of associate in specialized business or associate in specialized technology; a school or class conducted by an employer or trade union for employees or union members where no fee or tuition is charged; a school owned and operated by a bona fide religious institution whose only purpose is the providing of religious instruction; a school conducted by the Commonwealth or a political subdivision thereof; or a school which is operated by a hospital licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, and which is accredited by a regional or national accreditation agency.

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"Teach-out." The continuation of instruction to students to complete the program or course in which the students are enrolled when the school's license has expired, been revoked or a school has ceased enrollment.

Section 2. Section 3(a) of the act is amended to read:

Section 3. The State Board of Private Licensed Schools.

(a) Establishment of the board.--There is hereby created within the department a departmental administrative board to be known as the State Board of Private Licensed Schools. The board shall consist of 15 members, 14 of whom shall be appointed by the secretary. Three members shall represent private licensed

schools providing instruction in business and commercial pursuits, three members shall represent private licensed schools providing instruction in trades or technologies, three members shall represent private licensed schools providing [correspondence] **distance education** or home-study instruction and five members shall be representative of the general public having no current affiliation with private licensed schools. The Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee, shall serve ex officio and shall have voting rights. [Of the initial appointments, seven members, two from the business, one each from trade and correspondence school sectors and three from the public sector, shall be appointed for terms of two years. Seven members, one from the business, two each from trade and correspondence school sectors and two from the public sectors, shall be appointed for terms of four years.] After the initial appointments, all terms shall be for four years or until a successor has been appointed, but in no event shall a member hold office for longer than six months beyond expiration of the term. No board member shall serve more than two consecutive four-year terms. An appointment to fill a vacancy shall be for the unexpired term.

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Section 3. Section 4(b) and (d) of the act are amended and the section is amended by adding a subsection to read:

Section 4. Powers and duties of board.

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[(b) Disposition of student records.--The board shall require every applicant for initial or renewal licensure to provide a written statement describing arrangements for disposition of student records in the event of closure. It shall be the duty of the board and the department to assist in the execution of the arrangements when necessary. Priority shall be given to plans for retention of the records with existing private licensed schools in the same geographical area.]

(b.1) Repository of student records.--The following apply:

(1) The board may enter into an agreement with a third party to establish a centralized repository of student records for all private licensed schools. If the board enters into an agreement with a third party under this paragraph, a private licensed school shall work in collaboration with the board and the third party to provide the private licensed school's student records for the centralized repository, including student records that may have been previously disclosed to the board, the third party or another private licensed school. The board may establish an annual timeline for the private licensed school to provide student records for the centralized repository.

(2) The board or a third party authorized by the board may use current information technology systems and other means to provide the necessary security and privacy for the centralized repository of student records.

(3) The board or a third party authorized by the board may impose reasonable fees to establish and maintain the centralized repository of student records. The board may overturn a fee imposed by a third party under this paragraph by a majority vote if the board deems the fee to be unreasonable.

(4) A third-party centralized repository shall be required to submit to the board a plan of succession to protect and provide service for student records in the event the centralized repository ceases operation.

(5) The third-party centralized repository shall maintain the records for 50 years from the date of graduation or withdrawal in accordance with the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

(6) A records repository agreement submitted with an application for licensure or renewal shall remain in effect until the private licensed school fully participates in the centralized repository.

(7) Subsection (b) shall apply until the board has:

- (i) entered into a third-party agreement as prescribed in paragraph (1);
- (ii) the repository is functioning; and
- (iii) submitted to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin the date the centralized repository is accepting student records.

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(d) Statistical report.--The board shall submit annually to the Education Committees of the Senate and House of Representatives a report containing statistical data on tuition rates, job placement of graduates[,] **and** percentage of students completing programs of study [and the level of State support for students]. Private licensed or registered schools shall submit this information to the department by September 30 of each year for the preceding academic year ending June 30.

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Section 4. Sections 7(a)(3) and (4) and 10(b) of the act are amended to read:

Section 7. Application for license.

(a) General rule.--Before any license is issued to a private school, a verified application shall be made, in writing, to the board on a form prepared and furnished by the department. The application shall require a statement showing:

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(3) The place or places where instruction will be given or [correction services provided by correspondence schools] **the location from which instruction by distance education will originate.**

(4) A specific listing of the equipment and staff available for instruction in each program, and for the proper administration of [correspondence courses of study and for maintenance of an adequate correction service] **distance education courses.**

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Section 10. License fees.

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(b) Multibranch training school **and branch facility** fee.--A multibranch training school **and a branch facility** shall pay the same fees set forth in subsection (a) [, except that such school shall be required to pay only one fee for any and all branch training schools located in one county]. **No additional license fees or bond, excluding surety bond and board-approved private surety fund, shall be required of a multibranch training school and branch facility.**

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Section 5. Section 12 of the act is amended by adding a subsection to read:

Section 12. Requirements for licensure and operation.

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(f) **School closure.**--A school shall notify the board at least 30 calendar days in advance of a school closure. A license

or registration shall automatically terminate when the school closes. If a school is planning to close or if the school faces a situation that could result in closure, the school must provide the board with a teach-out plan, a list of all current students with contact information and copies of current student transcripts for students who are currently enrolled. A school that is closing is responsible for ensuring completion by all current students or placement of all current students in an appropriate teach-out or transfer program, ensuring that all student academic records are securely placed in the repository of student records provided for in section 4(b.1) or with another approved repository within one week of the date of closure and providing contact information for a responsible school official for up to one year following the date of closure.

Section 6. The act is amended by adding sections to read:
Section 13.1. Multibranch training schools.

(a) **Board approval.--**A licensed school shall receive approval from the board prior to opening a branch facility within this Commonwealth. To receive approval under this subsection, the licensed school must:

(1) Have been operational for two years prior to requesting approval.

(2) Be in good standing with the board.

(b) **Geographical limitations.--**A licensed school may only operate a branch facility in a county contiguous to the licensed school or within less than a 60-mile radius of the licensed school.

Section 13.2. Institutional grants authority.

A licensed school under this act may offer institutional grants to students of any amount without board approval.

Section 7. Sections 14 and 15(b) of the act are amended to read:

Section 14. Promulgation of rules.

The board shall promulgate rules and regulations necessary to carry out the purposes of this act. [The rules and regulations of the State Board of Private Business Schools, the State Board of Private Correspondence Schools and the State Board of Private Trade Schools in force on the effective date of this act, and not countermanded by this act, shall remain in effect until repealed or amended by the board, but not for a period of more than one year.]

Section 15. Penalties.

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(b) **Civil penalty.--**[In]

(1) **Subject to paragraph (2),** in addition to any other penalty provided in this act, the board may, by a majority vote of its statutorily authorized membership, levy a civil penalty of up to [\$1,000] **\$2,500** on any licensee who violates any provision of this act or any person who operates a private licensed school without being properly licensed under this act. **A civil penalty may only be assessed once per violation.** Prior to the collection of the penalty, the licensee or person shall have access to the hearing procedure provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(2) **The board may revise the amount of the civil penalty imposed under paragraph (1) by regulation. Any increase to the civil penalty under this paragraph shall be reasonable and required to deter violations of this act.**

Section 8. Sections 16 and 17 of the act are repealed:
[Section 16. Existing licenses to remain in force.

Licenses issued by the State Board of Private Business Schools, the State Board of Private Trade Schools and the State Board of Private Correspondence Schools shall remain in force for the period of the license. At the time of renewal of the license, the State Board of Private Licensed Schools may establish a staggered schedule for renewal.

Section 17. Transfer of personnel, etc.

Personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended by the boards hereby abolished in connection with the powers, duties or functions exercised under this act by the State Board of Private Licensed Schools are hereby transferred to the State Board of Private Licensed Schools with the same force and effect as if the appropriations had been made to, as if said items had been the property of and as if the contracts, agreements and obligations had been incurred or entered into by said State Board of Private Licensed Schools.]

Section 9. This act shall take effect as follows:

(1) The repeal of section 4(b) of the act shall take effect on the date specified in the notice published under section 4(b.1)(7)(iii) of the act.

(2) The remainder of this act shall take effect in 60 days.

APPROVED--The 27th day of November, A.D. 2019.

TOM WOLF