

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2245 Session of
2022

INTRODUCED BY MIHALEK, RYAN, LEWIS, KAIL, KERWIN, COX,
PENNYCUICK, M. MACKENZIE, BERNSTINE, COOK, MERCURI AND ROWE,
JANUARY 14, 2022

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 14, 2022

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 Pandemic Relief
6 Grant Program and the COVID-State Fiscal Recovery Restricted
7 Account; and imposing powers and duties on the State
8 Treasurer.

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

11 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
12 as the Public School Code of 1949, is amended by adding an
13 article to read:

14 ARTICLE XXVI-L

15 PANDEMIC RELIEF GRANT PROGRAM

16 Section 2601-L. Scope.

17 This article relates to the Pandemic Relief Grant Program.

18 Section 2602-L. Definitions.

19 The following words and phrases when used in this article
20 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Account." A spending account established and administered
3 by the State Treasurer and controlled by a parent for a school-
4 age child with money that may be spent on a qualified education
5 expense as provided for under section 2605-L.

6 "Applicant." A parent of a school-age child who applies for
7 an account under section 2603-L(b) on behalf of the school-age
8 child.

9 "COVID-19." The coronavirus disease 2019, an infectious
10 disease caused by severe acute respiratory syndrome coronavirus
11 2 that was first identified during December 2019 in Wuhan,
12 China.

13 "COVID-19 incongruence." School district protocols for COVID-
14 19, including masking requirements, the separation or isolation
15 of students, or COVID-19 testing requirements, that a parent or
16 guardian finds to have the effect of substantially interfering
17 with a student's educational performance, opportunities or
18 benefits.

19 "Department." The Department of Education of the
20 Commonwealth.

21 "Eligible student." A school-age child whose parent has
22 entered into an agreement under section 2603-L(e) on behalf of
23 the school-age child.

24 "Institution of higher education." As defined under section
25 118(c).

26 "Nonpublic school." A school, other than a public school,
27 located in this Commonwealth where a Commonwealth resident may
28 legally fulfill the compulsory attendance requirements of this
29 act that complies with section 1521 and meets the applicable
30 requirements of Title VI of the Civil Rights Act of 1964 (Public

1 Law 88-352, 78 Stat. 241).

2 "Parent." An individual who:

3 (1) is a resident of this Commonwealth; and

4 (2) either:

5 (i) has legal custody or guardianship of a school-
6 age child; or

7 (ii) keeps in the individual's home a school-age
8 child and supports the school-age child gratis as if the
9 school-age were a lineal descendant of the individual.

10 "Participating entity."

11 (1) Any of the following where a school-age child
12 receives instruction:

13 (i) A public or nonpublic school for kindergarten
14 through grade 12, or a combination of grades.

15 (ii) An institution of higher education.

16 (iii) A distance learning program that is not
17 offered by a public school or the department.

18 (iv) A tutor who is a teacher licensed in a state,
19 has taught at an eligible postsecondary institution and
20 is a subject matter expert or a tutor or tutoring agency
21 otherwise approved by the department.

22 (2) The term does not include a parent of a school-age
23 child to the extent that the parent provides educational
24 services directly to the school-age child.

25 "Program." Pandemic Relief Grant Program established under
26 section 2603-L(a).

27 "Public school." A school district, charter school, cyber
28 charter school, regional charter school, intermediate unit or
29 area vocational-technical school.

30 "Resident school district." The school district in which a

1 school-age child resides.

2 "School-age child." A child who is enrolled in kindergarten
3 through grade 12 and resides in this Commonwealth.

4 "Student with a disability." As defined in 22 Pa. Code §
5 14.101 (relating to definitions).

6 Section 2603-L. Pandemic Relief Grant Program.

7 (a) Establishment.--The Pandemic Relief Grant Program is
8 established in the department.

9 (b) Individuals who may apply.--A parent of a school-age
10 child may apply for an account for the school-age child who
11 attends a public school and where the school-age child is
12 subject to COVID-19 incongruence.

13 (c) Application period and eligibility.--The department
14 shall approve applications for accounts on a first-come, first-
15 served basis provided that money remains available for that
16 purpose.

17 (d) Application form.--The department shall develop a form
18 for the application which may not exceed one page that measures
19 8.5 inches by 11 inches and may be filled out and submitted
20 through the department's publicly accessible Internet website.

21 (e) Review and approval.--

22 (1) The department shall review a timely submitted
23 application to determine if the applicant meets the
24 requirements under subsection (c). If the requirements have
25 been met, the department shall approve the application and
26 enter into an agreement with the applicant.

27 (2) The agreement shall provide that:

28 (i) The parent will receive a grant on behalf of the
29 school-age child in the form of money deposited under
30 section 2604-L in the account.

1 (ii) The money in the account may be expended only
2 as authorized under this article.

3 (f) Account.--If an agreement is entered into under
4 subsection (e), an account shall be established in the State
5 Treasury. The account shall be administered by the State
6 Treasurer in accordance with this article.

7 (g) Term of agreement.--Except as otherwise provided under
8 this article, an agreement entered into under subsection (e)
9 shall be valid for up to two years following high school
10 graduation of the school-age child.

11 (h) Termination.--

12 (1) Notwithstanding subsection (i), an agreement entered
13 into under subsection (e) may be terminated early in
14 accordance with this section.

15 (2) If an agreement is terminated early by the parent or
16 department, all available money in the account shall revert
17 to the Commonwealth and be used in the resident school
18 district.

19 (i) Automatic termination.--

20 (1) An agreement entered into under subsection (e) shall
21 terminate automatically if the school-age child no longer
22 resides in this Commonwealth.

23 (2) The parent shall notify the department if the
24 school-age child no longer resides in this Commonwealth
25 within 15 days of the change of residence. After the parent
26 has notified the department, money remaining in the account
27 shall revert to the Commonwealth and be used by the resident
28 school district prior to the change of residence.

29 (j) Number.--A parent may enter into a separate agreement
30 under subsection (e) for each school-age child of the parent.

1 Not more than one account may be established for a school-age
2 child.

3 (k) Explanation.--After entering into an agreement under
4 subsection (e), the department shall provide the parent with a
5 written explanation of the authorized uses of the money in the
6 account and the responsibilities of the parent, the department
7 and the State Treasurer under the agreement and this article.

8 (l) Application notification.--The department shall notify
9 parents and school districts of approved applications within 15
10 days of receiving the timely filed applications.

11 Section 2604-L. Amount.

12 (a) General rule.--If a parent of a school-age child enters
13 into an agreement under section 2603-L with the department for a
14 school year, the Secretary of Education shall approve a \$5,000
15 grant for that school year in the eligible student's account and
16 the State Treasurer shall transfer \$5,000 from the COVID-State
17 Fiscal Recovery Restricted Account into the eligible student's
18 account.

19 (b) Disposition.--

20 (1) Money remaining in an account at the end of a school
21 year may be carried forward to future school years if the
22 eligible student remains engaged with a participating entity.

23 (2) Subject to paragraph (3), money remaining in an
24 account when an agreement entered into under section 2603-
25 L(d) is terminated shall revert to the resident school
26 district.

27 (3) Money remaining in an account after the eligible
28 student graduates from high school may be used for qualified
29 education expenses under section 2605-L for up to two years
30 after the date of high school graduation of the eligible

1 student. After the two-year time period under this paragraph
2 has expired, money remaining in the account shall revert to
3 the General Fund.

4 Section 2605-L. Qualified education expenses.

5 (a) General rule.--Money deposited in an account may be used
6 to pay for any of the following expenses incurred by or
7 associated with the eligible student:

8 (1) COVID-19 mitigation supplies, including masks, hand
9 sanitizer and other resources deemed effective at preventing
10 the spread of coronavirus.

11 (2) Tuition and fees charged by a participating entity.

12 (3) Textbooks or uniforms required by a participating
13 entity.

14 (4) Fees for tutoring or other teaching services
15 provided by a participating entity.

16 (5) Fees for a nationally norm-referenced test, advanced
17 placement or similar examination or standardized examination
18 required for admission to an institution of higher education
19 and career and technical education examination fees.

20 (6) Fees for purchasing curriculum or instructional
21 materials required to administer curriculum.

22 (7) If the eligible student is a student with a
23 disability, fees for special instruction or special services
24 provided to the eligible student, including occupational,
25 physical, speech and behavioral therapies.

26 (8) Computer hardware and computer software associated
27 with instruction or any of the qualifying expenses described
28 in this subsection.

29 (9) Fees for counseling services related to academic
30 achievement or social and emotional development.

1 (10) Expenses for transportation to a participation
2 entity.

3 (11) Other valid educational expenses approved by the
4 department.

5 (b) Prohibitions.--A participating entity that receives a
6 payment for qualified education expenses authorized under
7 subsection (a) may not:

8 (1) Refund all or a portion of the payment directly to
9 the parent who made the payment.

10 (2) Rebate or otherwise directly share a portion of the
11 payment with the parent who made the payment.

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

16 (d) Payment system.--

17 (1) The State Treasurer shall develop a system that
18 enables a parent to pay for services provided by
19 participating entities under the program by electronic money
20 transfer, including electronic payment systems or other means
21 of electronic payment that the State Treasurer determines to
22 be commercially viable and cost effective.

23 (2) The State Treasurer may contract with a private
24 entity to develop the payment system.

25 (3) The State Treasurer may not adopt a system that
26 requires a parent to be reimbursed for out-of-pocket
27 expenses.

28 (e) Source and amount of payment.--

29 (1) Accounts shall be funded by the COVID-State Fiscal
30 Recovery Restricted Account, which is established in the

1 State Treasury.

2 (2) Not more than \$500,000,000 from money received by
3 the Commonwealth from the American Rescue Plan Act of 2021
4 (Public Law 117-2, 135 Stat. 4) may be transferred to the
5 COVID-State Fiscal Recovery Restricted Account for the
6 purpose of funding accounts.

7 (3) An individual may not deposit personal money into or
8 otherwise make gifts or contributions of private money to an
9 account.

10 (4) Nothing in this section shall be construed to
11 prohibit a parent or school-age child from paying for
12 qualified education expenses from a source other than the
13 account.

14 Section 2606-L. Audits.

15 (a) Power to conduct.--The State Treasurer may provide for
16 audits of an account as the State Treasurer determines
17 necessary.

18 (b) Penalties.--If the State Treasurer determines that money
19 in an account has been expended for an expense other than a
20 qualified education expense under section 2605-L(a), the State
21 Treasurer may:

22 (1) Freeze or dissolve the account, subject to
23 regulations adopted by the State Treasurer providing for
24 notice to the parent of the action and opportunity to respond
25 to the notice.

26 (2) Refer the matter to the Attorney General or district
27 attorney of the county in which the parent resides for
28 investigation and criminal prosecution, if appropriate.

29 (3) Impose a civil penalty on the parent equal to 100%
30 of the amount in the account prior to the unauthorized use.

1 (4) Disqualify the parent from future participation in
2 the program.

3 Section 2607-L. Accountability standards for participating
4 entities.

5 (a) Duties.--A participating entity shall:

6 (1) Comply with all health and safety laws or codes that
7 apply to the participating entity.

8 (2) Hold a valid occupancy permit if required by the
9 municipality in which the participating entity is located.

10 (3) Comply with the nondiscrimination policies stated in
11 section 1521 of this act and section 101 of the Civil Rights
12 Act of 1991 (Public Law 102-166, 42 U.S.C. § 1981).

13 (4) Comply with the provisions of sections 111 and
14 111.1.

15 (b) Financial accountability standards.--A participating
16 entity shall provide parents of eligible students with a receipt
17 for all qualifying expenses incurred by the participating
18 entity.

19 (c) Academic accountability standards.--

20 (1) A parent of an eligible student shall notify the
21 department of the eligible student's graduation from high
22 school.

23 (2) The department shall comply with all student privacy
24 laws, including the Family Educational Rights and Privacy Act
25 of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

26 (d) Participating entity autonomy.--

27 (1) A participating entity shall be autonomous and shall
28 not be deemed an agent of the department or the Commonwealth
29 when acting in accordance with this article.

30 (2) The department or any other State agency may not

1 regulate the educational program of a participating entity
2 that accepts money from an account.

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

8 Section 2608-L. Bar of certain participating entities.

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

12 (1) routinely failed to comply with the accountability
13 standards established in section 2607-L; or

14 (2) failed to provide an eligible student with the
15 educational services funded by the account of the eligible
16 student.

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

21 (c) Appeal.--A participating entity may appeal the
22 department's decision under this section.

23 Section 2609-L. Duties of resident school districts.

24 A resident school district shall notify eligible students and
25 their parents about the program and provide information about
26 participating entities.

27 Section 2610-L. Legal proceedings.

28 (a) Liability.--No liability shall arise on the part of the
29 department, the Commonwealth, a public school or school district
30 based on the award or use of an account under this article.

1 (b) Challenges.--

2 (1) If a provision of this article is challenged in a
3 State court as violating the Constitution of the United
4 States, parents of eligible students and students who
5 previously had an account shall be permitted to intervene as
6 of right in the lawsuit for the purposes of defending the
7 program's constitutionality.

8 (2) For the purposes of judicial administration, a court
9 may require that parents file a joint brief but may not
10 require parents to join a brief filed on behalf of a named
11 State defendant.

12 (c) Severability.--If any provision of this article or the
13 application thereof to any person or circumstance is held
14 invalid, the invalidity shall not affect other provisions or
15 applications of this article which can be given effect without
16 the invalid provision or application. The provisions of this
17 article are declared to be severable.

18 Section 2611-L. Listing of participating entities.

19 The department shall annually post on the department's
20 publicly accessible Internet website a listing of all
21 participating entities.

22 Section 2612-L. Guidelines.

23 The State Treasurer, in consultation with the department,
24 shall develop guidelines as necessary for the administration of
25 this article within 10 days of the effective date of this
26 section.

27 Section 2. This act shall take effect immediately.