

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1154 Session of  
2011

INTRODUCED BY TOMLINSON, TARTAGLIONE, FONTANA, YAW, BROWNE,  
ERICKSON, RAFFERTY, ALLOWAY, SCHWANK AND MENSCH,  
JUNE 17, 2011

REFERRED TO EDUCATION, JUNE 17, 2011

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," providing for special education  
6 services for nonpublic school students.

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

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

12 Section 922.2-A. Special Education Services for Nonpublic  
13 School Students.--(a) Legislative Finding; Declaration of  
14 Policy. The welfare of this Commonwealth requires that school  
15 age children be assured ample opportunity to develop their  
16 intellectual capacities to the fullest. Children attending  
17 nonpublic schools have not been furnished special education  
18 services on an equal basis with public school children. It is  
19 the intent of the General Assembly to ensure that nonpublic

1 school children be afforded an equitable opportunity to receive  
2 special education services.

3 (b) Definitions. The following terms, whenever used or  
4 referred to in this section, shall have the following meanings,  
5 except in those circumstances where the context clearly  
6 indicates otherwise:

7 "Nonpublic school" means a nonprofit school, other than a  
8 public school or an approved private school within this  
9 Commonwealth wherein a resident of this Commonwealth may legally  
10 fulfill the compulsory school attendance requirements of this  
11 act and which meets the applicable requirements of Title VI of  
12 the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

13 "Special education services" means secular, neutral,  
14 nonideological educational services and related services for  
15 children with exceptionalities, as that term is defined in  
16 section 1371.

17 (c) Program of Special Education Services. (1) To the  
18 extent allowed by the level of funds appropriated by the General  
19 Assembly to implement the provisions of this section, a child  
20 with exceptionalities attending nonpublic schools shall be  
21 furnished a program of special education services that is  
22 required by law to be offered to public school students in this  
23 Commonwealth and that is appropriate to the needs of the child.  
24 The program of special education services shall be provided by  
25 the intermediate unit in which the nonpublic school is located,  
26 in accordance with standards of the Department of Education.

27 (2) The services shall be provided directly to the nonpublic  
28 school student by the intermediate unit in the school which the  
29 student attends, in mobile instructional units located on the  
30 grounds of the school or in any alternative setting mutually

1 agreed upon by the school and the intermediate unit, to the  
2 extent permitted by the Constitution of the United States and  
3 the Constitution of Pennsylvania.

4 (3) The services may be provided directly by the  
5 intermediate unit or through an agreement between the  
6 intermediate unit and the school district or qualified private  
7 service providers, but may not be provided by nonpublic school  
8 employees.

9 (4) A school district may also, at their option, provide the  
10 services to resident students attending a nonpublic school or  
11 place a child in need of the services in a nonpublic school at  
12 school district expense.

13 (d) School District Responsibilities. Nothing in this  
14 section may relieve any school district of any responsibilities  
15 under Federal or State law to identify, locate or evaluate any  
16 nonpublic school student who is in need of special education  
17 services. A school district may fulfill its responsibilities  
18 directly or by agreement with an intermediate unit.

19 (e) Intermediate Unit Responsibilities. (1) Intermediate  
20 units shall be responsible for designing and implementing  
21 appropriate individualized education programs for children with  
22 exceptionalities who attend nonpublic schools. The Department of  
23 Education shall prescribe standards establishing procedures for  
24 the development, review and revision of appropriate special  
25 education programs for those children, which standards shall  
26 include timely and meaningful consultation with a representative  
27 of the nonpublic school that the child to be served attends  
28 regarding the child's secular educational needs.

29 (2) The required consultation shall occur before the  
30 intermediate unit makes any decision that affects the

opportunities of nonpublic school children to participate in the services provided under this section, and shall include, at a minimum: which children shall receive services; what services will be provided; how and where the services will be provided; and how the services provided will be evaluated.

(f) Appropriations. (1) From the Federal funds received by the Commonwealth for special education services, the Secretary of Education shall allocate to intermediate units a proportion equal to the percentage of children with exceptionalities who attend nonpublic schools in this Commonwealth. Those funds shall be combined with State funds appropriated by the Commonwealth and utilized by the intermediate units for purposes of providing special education services under this section.

(2) Appropriations of Federal and State funds made by the Commonwealth under this section shall be allocated by the Department of Education to each intermediate unit based upon the number of nonpublic school children within that intermediate unit who are in need of special education services.

(g) Limitations on Expenditure. The intermediate unit shall not use more than six per centum (6%) of the funds it receives under this section for administrative expenses. The Department of Education shall not use more than one per centum (1%) of the funds it allocates under this section for administrative expenses. If all funds allocated by the intermediate units to administration are not expended for those purposes, the funds may be used for program costs under this section.

(h) Interest. There shall be no adjustment in the allocation as provided in subsection (f) because of interest earned on the allocations by the intermediate units. Interest so earned shall be used for the purpose of this section but shall not be subject

1 to the limitations of subsection (g).

2 (i) Budgets. Annually, each intermediate unit shall submit  
3 to the Secretary of Education a preliminary budget for services  
4 to be provided under this section on or before January 31 and a  
5 final budget on or before June 15 for the succeeding year, and  
6 shall file a final financial report on or before October 31 for  
7 the preceding year.

8 (j) Limitations on Regulations. (1) Nothing in this section  
9 may be construed to authorize any additional regulations,  
10 requirements or limitations upon nonpublic schools which are not  
11 otherwise authorized by law.

12 (2) No nonpublic school may be compelled to accept or to  
13 enroll children with exceptionalities if the school:

14 (i) is not structured or equipped to meet the special needs  
15 of the student;

16 (ii) does not offer educational programs appropriate to the  
17 special needs of the student; or

18 (iii) does not offer a particular program requested.

19 (3) The providing of special education services to children  
20 under this section shall not be considered to be appropriations  
21 or financial assistance to the nonpublic school which the child  
22 attends.

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