

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1119** Session of
2015

INTRODUCED BY PHILLIPS-HILL, DUSH, IRVIN, WARD, D. PARKER,
DIAMOND, PICKETT, KAUFFMAN, GROVE, SAYLOR, RADER, LAWRENCE,
BLOOM, TALLMAN, SONNEY, MCGINNIS, ZIMMERMAN, WARNER, GABLER,
EVERETT AND BAKER, MAY 6, 2015

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 15, 2015

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," in preliminary provisions, providing
6 for waiver of public school mandates.

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 124. Waiver of Public School Mandates.--(a) (1)
13 Except as otherwise provided in this section, the governing body
14 of a waiver applicant may adopt a resolution to apply to the
15 department for a waiver of any provision of this act, the
16 regulations of the State Board, the standards of the secretary
17 or other provisions of law permitted to be waived under this
18 section if the waiver will enable the waiver applicant to

1 improve its instructional program or operate in a more
2 effective, efficient or economical manner.

3 (2) Notwithstanding the provisions of clause (1), and except
4 as otherwise provided in this section, the governing bodies of
5 two (2) or more waiver applicants may, following the adoption of
6 a resolution by each governing body, apply jointly to the
7 department for a waiver of any provision of this act, the
8 regulations of the State Board, the standards of the secretary
9 or other provisions of law permitted to be waived under this
10 section if the waiver will enable the waiver applicants to
11 improve their instructional programs or operate in a more
12 effective, efficient or economical manner.

13 (b) (1) An application for a waiver under this section
14 shall be pursuant to a process and on a form developed by the
15 State Board. The application form developed by the State Board
16 shall require the waiver applicant to provide only the following
17 information:

18 (i) The provisions of law, the regulations of the State
19 Board or the standards of the secretary for which the waiver
20 applicant seeks a waiver.

21 (ii) The reason the waiver is needed.

22 (iii) Supporting data and information that explain the
23 benefits expected to be obtained as a result of the waiver and,
24 when applicable, the instructional programs that will operate
25 under the waiver and how the instructional programs will be
26 improved as a result of the waiver.

27 (iv) A procedure the waiver applicant will use to evaluate
28 the success of the waiver after the waiver is approved,
29 including a procedure to determine the effectiveness of a
30 revised instructional program, which shall include measures of

1 student performance, or the effectiveness of changes in the
2 operations of the waiver applicant.

3 (2) In developing the application process and form provided
4 for in clause (1), the State Board shall ensure that a waiver
5 applicant may apply through a single application for waivers of
6 individual or multiple provisions of this act, the regulations
7 of the State Board, the standards of the secretary or other
8 provisions of law permitted to be waived pursuant to this
9 section.

10 (c) Each waiver application under this section shall be
11 adopted by a resolution of the governing body of the waiver
12 applicant at a regularly scheduled meeting of the governing
13 body.

14 (d) In considering a waiver application under this section,
15 the department:

16 (1) Shall not impose any additional requirements on the
17 waiver applicant beyond those provided for in this section.

18 (2) Shall approve any waiver application that:

19 (i) Complies with the application process developed by the
20 State Board under subsection (b)(1).

21 (ii) Provides all information required in the application
22 form developed by the State Board under subsection (b)(1).

23 (iii) Does not conflict with a provision of Federal law or
24 any other law or regulation that is not permitted to be waived
25 under this section.

26 (e) The department shall have thirty (30) days from receipt
27 of the waiver application to issue its written approval,
28 disapproval or request for modifications to the waiver
29 application. If the department fails to act within that time
30 period, the waiver application shall be deemed to be approved.

1 (f) (1) If the department disapproves the waiver
2 application, the department must state in writing the specific
3 reason for the disapproval, including an explanation of any
4 provision of law that is not permitted to be waived under this
5 section that would be violated if the waiver application were
6 granted.

7 (2) When the department disapproves a waiver application,
8 the waiver applicant may revise and resubmit the waiver
9 application.

10 (3) A waiver applicant may appeal any disapproval of a
11 waiver application to the secretary pursuant to 2 Pa.C.S. Chs. 5
12 (relating to practice and procedure) and 7 (relating to judicial
13 review). A waiver applicant shall not be required to revise and
14 resubmit the waiver application prior to appealing a
15 disapproval.

16 (g) A waiver applicant must receive the department's written
17 approval of its waiver application prior to implementing the
18 waiver sought in the waiver application.

19 (h) (1) No later than five (5) years from the
20 implementation of a waiver granted under this section, the
21 waiver applicant shall submit to the department the evaluation
22 set forth in subsection (b)(1)(iv). When the evaluation
23 submitted under this clause indicates an improvement in student
24 performance, instructional program or operations, the waiver
25 shall be renewed by the department and shall remain in effect,
26 unless a governing body opts out of the continuation of the
27 waiver.

28 (2) In the case of a waiver for which multiple waiver
29 applicants applied jointly, each individual waiver applicant
30 shall separately submit to the department the evaluation set

1 forth in subsection (b)(1)(iv). The department shall renew the
2 waiver of each waiver applicant on an individual basis.

3 (3) If a waiver applicant fails to submit to the department
4 the evaluation required to be submitted under clauses (1) and
5 (2), the waiver shall expire.

6 (i) The following shall not be subject to waiver pursuant to
7 this section:

8 (1) The following provisions of this act: sections 108, 110,
9 111, 111.1, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437,
10 440.1, 443, 510, 513, 518, 527, ~~688, 691, 696~~, 701.1, 708, 736, <--
11 737, 738, 739, 740, 741, 752, 753, 771, 776, 777, 778, 785, 808,
12 809, 810, 1073, 1073.1, 1076, 1077, 1080, 1302, 1303, 1310,
13 1317, 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1366,
14 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546, 1547 and 2104;
15 provisions prohibiting discrimination; Articles VI, VI-A, XI,
16 XI-A, XII, XIII-A, XIV and XVII-A; and this section.

17 (2) Section 1361, provided that the department may approve a
18 waiver application seeking a waiver of section 1361 to allow the
19 provision of transportation to a public kindergarten, elementary
20 school or secondary school or a nonpublic kindergarten,
21 elementary school or secondary school operated not for profit
22 located more than ten miles outside the district boundaries by
23 the nearest public highway, provided that the provision of
24 transportation is more cost effective for the district or the
25 Commonwealth or addresses student safety concerns.
26 Transportation provided under this clause shall be considered an
27 allowable district expense for purposes of calculating
28 transportation reimbursement.

29 (3) The following provisions of 22 Pa. Code (relating to
30 education):

1 Chapter 4 (relating to academic standards and assessment).

2 Chapter 10 (relating to safe schools).

3 Chapter 11 (relating to student attendance).

4 Chapter 12 (relating to students and student services).

5 Chapter 14 (relating to special education services and
6 programs).

7 Chapter 15 (relating to protected handicapped students).

8 Chapter 16 (relating to special education for gifted
9 students).

10 Section 32.3 (relating to assurances).

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11 Section 121.3 (relating to discrimination prohibited).

12 Section 235.4 (relating to practices).

13 Section 235.8 (relating to civil rights).

14 (4) For intermediate units, Article IX-A.

15 (5) For area vocational-technical schools, Article XVIII.

16 (j) The governing body of a waiver applicant may not seek a
17 waiver of any Federal law or State law applicable to a public
18 school that is not within the provisions of this act, with the
19 exception of the following provisions of State law which shall
20 be subject to waiver pursuant to this section:

21 (1) The act of May 1, 1913 (P.L.155, No.104), known as the
22 "Separations Act."

23 (2) The act of August 15, 1961 (P.L.987, No.442), known as
24 the "Prevailing Wage Act."

25 (3) The act of March 3, 1978 (P.L.6, No.3), known as the
26 "Steel Products Procurement Act."

27 (k) Notwithstanding section 106 or any other provision of
28 this act, the following shall apply to the publication of
29 notices:

30 (1) Whenever, under the provisions of this act, notice is

1 required to be published in one newspaper, a school district may
2 satisfy the notice requirement by publishing notice on the
3 school district's publicly accessible Internet website. Such
4 notice shall be published in a manner that will allow a person
5 to access the notice by clicking on a tab labeled "NOTICES"
6 located on the home page of the school district's publicly
7 accessible Internet website.

8 (2) Proof of publication of any notice published pursuant to
9 clause (1) shall be made by attaching a copy of the notice as it
10 appeared on the school district's publicly accessible Internet
11 website to an affidavit made by the secretary of the board of
12 school directors stating that the notice appeared on the school
13 district's publicly accessible Internet website and the time
14 period within which the notice appeared on such website.

15 (1) The department shall post all waiver applications and
16 department approvals, disapprovals and renewals under this
17 section on its publicly accessible Internet website.

18 (m) Nothing in this section shall be construed to supersede
19 or preempt any provisions of a collective bargaining agreement
20 in effect on the effective date of this section.

21 (n) As used in this section, the following terms and phrases
22 shall have the meanings given to them in this subsection, unless
23 the context clearly indicates otherwise:

24 "Department" shall mean the Department of Education.

25 "Governing body" shall mean a board of school directors of a
26 school district, a board of trustees of a charter school, cyber
27 charter school or regional charter school, an area vocational-
28 technical board or the board of directors of an intermediate
29 unit.

30 "Secretary" shall mean the Secretary of Education.

1 "State Board" shall mean the State Board of Education.

2 "Waiver applicant" shall mean a school district, charter
3 school, cyber charter school, regional charter school, area
4 vocational-technical school or intermediate unit that applies
5 for a waiver under this section.

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