
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2696 Session of
2020

INTRODUCED BY OWLETT, BURGOS, TOPPER, ROTHMAN, ZIMMERMAN,
BERNSTINE, MENTZER, GLEIM AND TOOHL, JULY 14, 2020

REFERRED TO COMMITTEE ON EDUCATION, JULY 14, 2020

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 Back on Track
6 Education Scholarship Account Program; and imposing duties on
7 the Department of Education and the State Treasurer.

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

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

13 ARTICLE XXVI-L

14 BACK ON TRACK EDUCATION SCHOLARSHIP ACCOUNT PROGRAM

15 Section 2601-L. Scope.

16 This article relates to the Back on Track Education
17 Scholarship Account 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 "Department." The Department of Education of the
10 Commonwealth.

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

14 "Institution of higher education." As defined under section
15 118(c).

16 "Nonpublic school." A school, other than a public school,
17 located in this Commonwealth where a Commonwealth resident may
18 legally fulfill the compulsory attendance requirements of this
19 act that complies with section 1521 and meets the applicable
20 requirements of Title VI of the Civil Rights Act of 1964 (Public
21 Law 88-352, 78 Stat. 241).

22 "Parent." An individual who:

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

24 (2) either:

25 (i) has legal custody or guardianship of a student;

26 or

27 (ii) keeps in the individual's home a student and

28 supports the student gratis as if the student were a

29 lineal descendant of the individual.

30 "Participating entity."

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

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

5 (ii) An institution of higher education.

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

8 (iv) A tutor who is a teacher licensed in any state,
9 has taught at an eligible postsecondary institution and
10 is a subject matter expert or a tutor or tutoring agency
11 otherwise approved by the department.

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

15 "Program." The Back on Track Education Scholarship Account
16 Program established under section 2603-L(a).

17 "Public school." A school district, charter school, cyber
18 charter school, regional charter school, intermediate unit or
19 area vocational-technical school.

20 "Resident school district." The school district in which a
21 school-age child resides.

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

24 "Student with a disability." As defined in 22 Pa. Code §
25 14.101 (relating to definitions).

26 Section 2603-L. Back on Track Education Scholarship Account
27 Program.

28 (a) Establishment.--The Back on Track Education Scholarship
29 Account Program is established in the department.

30 (b) Individuals who may apply.--A parent may apply for an

1 account for a school-age child.

2 (c) Application period and eligibility.--In awarding money
3 from accounts, the department shall give the following
4 preference:

5 (1) A school-age child whose family income is at or
6 below 185% of the Federal poverty level receives priority
7 application approval beginning on the effective date of this
8 section until November 16, 2020.

9 (2) A school-age child may apply to the program
10 beginning on November 16, 2020.

11 (3) An account shall be awarded to approved applicants
12 on a first-come, first-served basis provided that money
13 remains available.

14 (4) The department may not accept applications received
15 after December 6, 2020.

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

20 (e) Review and approval.--

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

26 (2) The agreement shall provide that:

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

30 (ii) The money in the account may be expended only

1 as authorized under this article.

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

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

10 (h) Termination.--

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

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

18 (i) Automatic termination.--

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

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

28 (j) Number.--A parent may enter into separate agreements
29 under subsection (e) for each school-age child of the parent.
30 Not more than one account may be established for a school-age

1 child.

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

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

10 Section 2604-L. Amount.

11 (a) General rule.--If a parent of a school-age child enters
12 into an agreement under section 2603-L with the department for a
13 school year, the Secretary of Education shall deposit a \$1,000
14 grant for that school year in the account of the eligible
15 student.

16 (b) Disposition.--

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

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

24 (3) Money remaining in an account after the school-age
25 child graduates from high school may be used for qualified
26 education expenses under section 2605-L for up to two years
27 after the date of high school graduation of the eligible
28 student. After the two-year time period under this paragraph
29 has expired, money remaining in the account shall revert to
30 the General Fund.

1 Section 2605-L. Qualified education expenses.

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

5 (1) Tuition and fees charged by a participating entity.

6 (2) Textbooks or uniforms required by a participating
7 entity.

8 (3) Fees for tutoring or other teaching services
9 provided by a participating entity.

10 (4) Fees for a nationally norm-referenced test, advanced
11 placement or similar examination or standardized examination
12 required for admission to an institution of higher education
13 and career and technical education examination fees.

14 (5) Fees for purchasing curriculum or instructional
15 materials required to administer curriculum.

16 (6) If the eligible student is a student with a
17 disability, fees for special instruction or special services
18 provided to the eligible student, including, but not limited
19 to, occupational, physical, speech and behavioral therapies.

20 (7) Computer hardware and computer software associated
21 with instruction or any of the qualifying expenses described
22 in this subsection.

23 (8) Fees for counseling services related to academic
24 achievement or social and emotional development.

25 (9) Other valid educational expenses approved by the
26 department.

27 (b) Prohibitions.--A participating entity that receives a
28 payment for qualified education expenses authorized under
29 subsection (a) may not:

30 (1) Refund a portion of the payment directly to the

1 parent who made the payment.

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

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

8 (d) Payment system.--

9 (1) The State Treasurer shall develop a system that
10 enables a parent to pay for services provided by
11 participating entities under the program by electronic money
12 transfer, including electronic payment systems or other means
13 of electronic payment that the State Treasurer determines to
14 be commercially viable and cost effective.

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

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

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

21 (1) An account shall be funded by the COVID-19 Response
22 Restricted Account.

23 (2) Total money to be transferred from the COVID-19
24 Response Restricted Account to fund accounts shall not exceed
25 \$500,000,000.

26 (3) An individual may not deposit personal money into or
27 otherwise make gifts or contributions of private money to an
28 account.

29 (4) Nothing in this section shall be construed to
30 prohibit a parent or school-age child from paying for

1 qualified education expenses from a source other than the
2 account.

3 Section 2606-L. Audits.

4 (a) Power to conduct.--The State Treasurer may provide for
5 audits of an account as the State Treasurer determines
6 necessary.

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

11 (1) Freeze or dissolve the account, subject to
12 regulations adopted by the State Treasurer providing for
13 notice to the parent of the action and opportunity to respond
14 to the notice.

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

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

20 (4) Disqualify the parent from future participation in
21 the program.

22 Section 2607-L. Accountability standards for a participating
23 entity.

24 (a) General rule.--A participating entity shall:

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

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

29 (3) Comply with the nondiscrimination policies stated in
30 section 42 U.S.C. § 1981 (relating to equal rights under the

1 law) and with section 1521.

2 (4) Comply with the provisions of sections 111 and
3 111.1.

4 (b) Financial accountability standards.--A participating
5 entity shall provide parents of eligible students with a receipt
6 for all qualifying expenses incurred by the participating
7 entity.

8 (c) Academic accountability standards.--

9 (1) A parent of an eligible student shall notify the
10 department of the eligible student's graduation from high
11 school.

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

15 (d) Participating entity autonomy.--

16 (1) A participating entity shall be autonomous and may
17 not be an agent of the department or the Commonwealth.

18 (2) The department or any other State agency may not
19 regulate the educational program of a participating entity
20 that accepts money from an account.

21 (3) The establishment of the program may not be
22 construed to expand the regulatory authority of the State,
23 the officers of the State or any school district to impose
24 any additional regulation of a participating entity beyond
25 those necessary to enforce the requirements of the program.

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

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

30 (1) routinely failed to comply with the accountability

1 standards established in section 2607-L; or

2 (2) failed to provide an eligible student with the
3 educational services funded by the account of the eligible
4 student.

5 (b) Notice.--If the department bars a participating entity
6 from further participation in the program, the department shall
7 post the decision on the department's publicly accessible
8 Internet website.

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

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

12 A resident school district shall notify eligible students and
13 their parents about the program and provide information about
14 participating entities.

15 Section 2610-L. Legal proceedings.

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

20 (b) Challenges.--

21 (1) If any part of this article is challenged in a State
22 court as violating the Constitution of the United States,
23 parents of eligible students and students who previously had
24 an account shall be permitted to intervene as of right in the
25 lawsuit for the purposes of defending the program's
26 constitutionality.

27 (2) For the purposes of judicial administration, a court
28 may require that parents file a joint brief but may not
29 require parents to join a brief filed on behalf of a named
30 State defendant.

1 (c) Severability.--If any provision of this article or the
2 application thereof to any person or circumstance is held
3 invalid, the invalidity shall not affect other provisions or
4 applications of this article which can be given effect without
5 the invalid provision or application. The provisions of this
6 article are declared to be severable.

7 Section 2611-L. Listing of participating entities.

8 The department shall annually post on the department's
9 publicly accessible Internet website a listing of all
10 participating entities.

11 Section 2612-L. Guidelines.

12 The State Treasurer, in consultation with the department,
13 shall develop guidelines as necessary for the administration of
14 this article within 10 days of the effective date of this
15 section.

16 Section 2. This act shall take effect immediately.