

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1216 Session of
2020

INTRODUCED BY LANGERHOLC, STEFANO, MENSCH, PHILLIPS-HILL,
J. WARD, AUMENT, PITTMAN, REGAN, BROWNE, TARTAGLIONE,
KILLION, SABATINA, VOGEL, SCAVELLO, BOSCOLA, COLLETT, BLAKE,
SANTARSIERO, BAKER, IOVINO, MUTH, BREWSTER, HUGHES AND
MASTRIANO, JUNE 19, 2020

AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, NOVEMBER 18, 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," in preliminary provisions, further
6 providing for Keystone Exams and graduation requirements, FOR <--
7 SPECIAL PROVISIONS APPLICABLE TO THE KEYSTONE EXAMS,
8 GRADUATION REQUIREMENTS AND ALTERNATIVE COMPETENCY ASSESSMENT
9 AND FOR SPECIAL EDUCATION FUNDING COMMISSION; in
10 certification of teachers, further providing for
11 instructional certificate grade spans and age levels and
12 duties of department and providing for special provisions
13 applicable to 2020-2021 school year; in pupils and
14 attendance, providing for nonpublic school transportation for
15 2020-2021 school year; and, ~~in school health services,~~ <--
16 ~~further providing for confidentiality, transference and~~
17 ~~removal of health records.~~ IN TERMS AND COURSES OF STUDY, <--
18 FURTHER PROVIDING FOR PANDEMIC OF 2020; AND, IN EDUCATIONAL
19 TAX CREDITS, FURTHER PROVIDING FOR LIMITATIONS.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Section 121(b)(1) of the act of March 10, 1949
23 (P.L.30, No.14), known as the Public School Code of 1949, is
24 amended to read:

1 Section 121. Keystone Exams and Graduation Requirements.--*

2 * *

3 (b) The following shall apply:

4 (1) Notwithstanding section 2604-B(b)(2)(v), 22 Pa. Code §
5 4.24 (relating to high school graduation requirements), 4.51
6 (relating to State assessment system) or 4.51c (relating to
7 project-based assessment) or any statute or regulation to the
8 contrary, the use of the Keystone Exams as a State or local <--
9 graduation requirement or as a benchmark for the need for
10 participation in a project-based assessment shall be delayed
11 until the [2021-2022] 2022-2023 school year.

12 * * *

13 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

14 SECTION 121.1. SPECIAL PROVISIONS APPLICABLE TO THE KEYSTONE
15 EXAMS, GRADUATION REQUIREMENTS AND ALTERNATIVE COMPETENCY
16 ASSESSMENT.--FOR THE 2019-2020 SCHOOL YEAR AND ANY SUBSEQUENT
17 SCHOOL YEAR IN WHICH THE FEDERAL GOVERNMENT HAS WAIVED THE
18 TESTING AND ACCOUNTABILITY REQUIREMENTS OF THE ELEMENTARY AND
19 SECONDARY EDUCATION ACT OF 1965 (PUBLIC LAW 89-10, 20 U.S.C. §
20 6301 ET SEQ.), AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT
21 (PUBLIC LAW 114-95, 129 STAT. 1802), ANY STUDENT WHO COMPLETED A
22 COURSE IN AN ACADEMIC CONTENT AREA ASSOCIATED WITH A KEYSTONE
23 EXAM SHALL NOT BE REQUIRED TO TAKE THE KEYSTONE EXAM RELATED TO
24 THAT COURSE AND SHALL BE DEEMED PROFICIENT FOR PURPOSES OF
25 SECTIONS 121 AND 2604-B(B)(2)(V) AND 22 PA. CODE § 4.24
26 (RELATING TO HIGH SCHOOL GRADUATION REQUIREMENTS), PROVIDED THAT
27 THE STUDENT DEMONSTRATES SUCCESSFUL COMPLETION OF LOCALLY
28 ESTABLISHED, GRADE-BASED REQUIREMENTS FOR THE ACADEMIC CONTENT
29 AREAS ASSOCIATED WITH EACH KEYSTONE EXAM.

30 SECTION 2.1. SECTION 122(K)(2) OF THE ACT, AMENDED JUNE 5,

1 2020 (P.L.223, NO.30), IS AMENDED TO READ:

2 SECTION 122. SPECIAL EDUCATION FUNDING COMMISSION.--* * *

3 (K) * * *

4 (2) THE COMMISSION SHALL BE RECONSTITUTED NOT LATER THAN
5 AUGUST 15, 2019, AND SHALL ISSUE THE REPORT TO THE RECIPIENTS
6 LISTED IN SUBSECTION (I) (5) NOT LATER THAN [SEPTEMBER 30, 2020]
7 JUNE 30, 2021. THE COMMISSION SHALL LIMIT THE SCOPE OF THE
8 REVIEW PROVIDED FOR UNDER THIS SUBSECTION TO ONLY THE PROVISION
9 OF SPECIAL EDUCATION PAYMENTS TO SCHOOL DISTRICTS BY THE
10 COMMONWEALTH THROUGH THE FUNDING FORMULA CONTAINED IN SECTION
11 2509.5.

12 * * *

13 Section ~~2~~ 3. Section 1202.1(a) of the act is amended by <--
14 adding a paragraph to read:

15 Section 1202.1. Instructional Certificate Grade Spans and
16 Age Levels and Duties of Department.--(a) The following shall
17 apply to special education certificates:

18 * * *

19 (1.1) Notwithstanding paragraph (1), a teacher preparation
20 program may permit an individual enrolled at an institution of
21 higher education or in an approved alternative preparation
22 program prior to December 31 2021, and who remains continuously
23 enrolled to complete the program for the grade level limitations
24 provided under 22 Pa. Code § 49.85(a) and (b). The department
25 may issue the appropriate Special Education-PK-8 or Special
26 Education-7-12 certificates to an applicant who completes the
27 program and meets all other certification requirements.

28 * * *

29 Section ~~3~~ 4. The act is amended by adding sections to read: <--

30 Section 1207.4. Special Provisions Applicable to 2020-2021

1 School Year.--(a) Beginning on the effective date of this
2 subsection and notwithstanding any other provision of law to the
3 contrary, the Secretary of Education may do any or all of the
4 following:

5 (1) Waive the requirement to satisfactorily complete the
6 assessment of basic skills required under section 1207.3 and 22
7 Pa. Code § 49.18(c) (relating to assessment) during the 2020-
8 2021 school year. This paragraph shall expire June 30, 2021.

9 (2) Issue a temporary provisional certificate to an educator
10 who has completed a preparation program and meets all
11 requirements for certification except the satisfactory
12 completion of the assessments required pursuant to 22 Pa. Code §
13 49.18(c) because the assessments were canceled or could not be
14 scheduled. A temporary provisional certificate issued under this
15 paragraph shall expire after one year of issuance and may be
16 converted to a Level I Pennsylvania certificate upon submission
17 of evidence of satisfactory completion of the required
18 assessments to the Department of Education. This paragraph shall
19 expire on June 30, 2021.

20 (3) Issue an exceptional case permit for a professional
21 employee at the request of a school entity that employs the
22 professional employee who completed the final year of Level I
23 Pennsylvania certificate validity in the 2019-2020 school year
24 and who was unable to complete the assessment requirements for
25 conversion to a Level II Pennsylvania certificate under 22 Pa.
26 Code § 49.18(a)(2)(iii) because the assessments were canceled or
27 could not be scheduled. The exceptional case permit shall expire
28 one year from the date of issuance. This paragraph shall expire
29 June 30, 2021.

30 (4) Issue a temporary certificate to an individual who is

1 unable to complete the appropriate subject matter test for areas
2 other than health and physical education, cooperative education,
3 all special education areas and additional areas as may be
4 determined by the Department of Education under 22 Pa. Code §
5 49.18(e) when the Department of Education determines that the
6 relevant assessment has been canceled or could not be scheduled.
7 An individual who provides evidence as required by the
8 Department of Education indicating that the individual attempted
9 to access testing and was denied registration may be eligible
10 for issuance of a temporary certificate under this paragraph.
11 The temporary certificate shall expire one year from the date of
12 issuance and may be converted to a full instructional
13 certificate by providing proof of satisfactory achievement on
14 the required test to the Department of Education. This paragraph
15 shall expire June 30, 2021.

16 (5) EXTEND AN EMERGENCY PERMIT ISSUED UNDER 22 PA. CODE § <--
17 49.31 (RELATING TO CRITERIA FOR ELIGIBILITY) DURING THE 2020-
18 2021 SCHOOL YEAR AT THE REQUEST OF A SCHOOL ENTITY THAT EMPLOYS
19 AN EMERGENCY PERMIT HOLDER WHEN AN EMPLOYEE IS UNABLE TO COMPLETE
20 THE REQUIREMENTS ASSOCIATED WITH THE PERMIT BECAUSE THE PROGRAM
21 CREDITS OR ASSESSMENT COULD NOT BE COMPLETED OR SCHEDULED. THE
22 EXTENDED EMERGENCY PERMIT SHALL EXPIRE ONE YEAR FROM THE DATE OF
23 EXTENSION. THIS PARAGRAPH SHALL EXPIRE JUNE 30, 2021.

24 ~~(5)~~ (6) The following provisions relating to testing shall <--
25 apply:

26 (i) The Secretary of Education may waive the NIMS assessment
27 and the NOCTI exam on a school-wide basis or for a specific
28 career and technical education program provided by a school
29 entity based on the recommendations of directors of career and
30 technical education programs under 22 Pa. Code Ch. 339 (relating

1 to vocational education). The recommendations shall account for
2 the length of time a career and technical center was open for
3 in-person student instruction and the subject matter of the
4 program affected.

5 (ii) The Secretary of Education shall waive the requirement
6 to include performance data otherwise required under section
7 1123(b)(1)(ii) in a professional employe's performance rating
8 under section 1123.

9 (b) Beginning on the effective date of this subsection and
10 notwithstanding any other provision of law to the contrary, the
11 deadline by which any paraprofessional employed by a school
12 entity as of March 13, 2020, must satisfy staff development
13 activity hour requirements under 22 Pa. Code § 14.105 (relating
14 to personnel) shall be extended until June 30, 2021. This
15 subsection shall expire one year from the effective date of this
16 subsection.

17 (c) ~~The following provisions relating to testing of students~~<--
18 ~~shall apply:~~

19 ~~(1) Notwithstanding section 2604 B(b)(2)(v) or 22 Pa. Code §~~
20 ~~4.24 (relating to high school graduation requirements), 4.51~~
21 ~~(relating to State assessment system) or 4.51c (relating to~~
22 ~~project based assessment), or any statute or regulation to the~~
23 ~~contrary, the use of the Keystone Exams as a State or local~~
24 ~~graduation requirement or as a benchmark for the need for~~
25 ~~participation in a project based assessment shall be delayed~~
26 ~~until the 2022-2023 school year.~~

27 ~~(2) The Secretary of Education shall~~ MAY apply to the United <--
28 States Department of Education for a waiver of the testing and
29 accountability requirements of the Elementary and Secondary
30 Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et

1 seq.), as amended by the Every Student Succeeds Act (Public Law
2 114-95, 129 stat. 1802), if the United States Department of
3 Education provides an opportunity to apply for such a waiver for
4 the 2020-2021 school year. THIS PARAGRAPH MAY NOT BE CONSTRUED <--
5 TO INCLUDE THE POWER OF THE SECRETARY OF EDUCATION TO SEEK A
6 WAIVER FOR FUTURE SCHOOL YEARS WITHOUT LEGISLATIVE APPROVAL.

7 ~~(3) For the 2019-2020 school year and any subsequent school <--~~
8 ~~year in which the Federal Government has waived the testing and~~
9 ~~accountability requirements of the Elementary and Secondary~~
10 ~~Education Act of 1965, as amended by the Every Student Succeeds~~
11 ~~Act, any student who completed a course in an academic content~~
12 ~~area associated with a Keystone Exam shall not be required to~~
13 ~~take the Keystone Exam related to that course and shall be~~
14 ~~deemed proficient for purposes of sections 121 and 2604 B(b)(2)~~
15 ~~(v) and 22 Pa. Code § 4.24, provided the student demonstrates~~
16 ~~successful completion of locally established, grade based~~
17 ~~requirements for the academic content areas associated with each~~
18 ~~Keystone Exam.~~

19 ~~(4) Notwithstanding the provisions of 22 Pa. Code § 4.4(d)~~
20 ~~(3) (relating to general policies), a parent or guardian of a~~
21 ~~student enrolled in the 2019-2020 or 2020-2021 school year in a~~
22 ~~grade or course in an academic content area for which an~~
23 ~~assessment is typically required may elect to opt out of the~~
24 ~~assessment. The following shall apply:~~

25 ~~(i) A parent or guardian who elects to opt out of an~~
26 ~~assessment under this paragraph shall not be required to adhere~~
27 ~~to the procedures set forth under 22 Pa. Code § 4.4(d)(4).~~

28 ~~(ii) Within thirty (30) days of the effective date of this~~
29 ~~paragraph, a school entity shall notify its students and their~~
30 ~~parents or guardians that the parents or guardians may opt out~~

1 ~~of an assessment under this paragraph.~~

2 ~~(iii) A parent or guardian of a student who elects to opt~~
3 ~~out of an assessment under this paragraph shall notify a school~~
4 ~~entity in writing of the decision to opt out of the assessment.~~

5 ~~(iv) A school entity may not impose negative consequences on~~
6 ~~a student, including, but not limited to, the denial of a high~~
7 ~~school diploma, based solely on the decision of the student's~~
8 ~~parent or guardian to opt out of an assessment under this~~
9 ~~paragraph.~~

10 ~~(v) A school entity or an employe of the school entity may~~
11 ~~not encourage a parent or guardian of a student to opt out of an~~
12 ~~assessment under this paragraph or penalize a student or the~~
13 ~~student's parent or guardian for opting out of an assessment~~
14 ~~under this paragraph. Nothing in this subparagraph shall be~~
15 ~~construed to prohibit a school entity or an employe of the~~
16 ~~school entity from communicating with students or their parents~~
17 ~~or guardians regarding the option to opt out of an assessment~~
18 ~~under this paragraph.~~

19 ~~(vi) For the purposes of this paragraph, the term~~
20 ~~"assessment" shall include the Pennsylvania System of School~~
21 ~~Assessment test, a Keystone Exam or a test established by~~
22 ~~statute, regulation or the State Board of Education in~~
23 ~~accordance with section 2603 B or 2604 B, 22 Pa. Code § 4.51 or~~
24 ~~the Every Student Succeeds Act (Public Law 114 95, 129 Stat.~~
25 ~~1802).~~

26 Section 1361.1. Nonpublic School Transportation for 2020-
27 2021 School Year.--(a) Although the current provisions of
28 section 1361 require school districts to provide for the
29 transportation of students enrolled in nonpublic schools not
30 operated for profit, the purpose of this section is to clarify

<--

~~1 the current provisions of this article relating to the
2 transportation of the students during the 2020-2021 school year
3 during the COVID-19 disaster emergency.~~

~~4 (b) As it relates to the provision of transportation for
5 nonpublic schools for the 2020-2021 school year, if
6 transportation was provided during the 2019-2020 school year for
7 pupils of nonpublic schools under section 1361(1), the board of
8 school directors shall provide pupils of nonpublic school
9 transportation on the dates and periods that the nonpublic
10 school is in session according to the school calendar officially
11 adopted by the nonpublic school whether or not transportation is
12 provided on those dates and periods to students attending
13 schools of the district.~~

~~14 (c) (B) As used in this section, the following words and <--
15 phrases shall have the meanings given to them in this subsection
16 unless the context clearly indicates otherwise:~~

~~17 "COVID-19 disaster emergency." The proclamation of disaster
18 emergency issued by the Governor on March 6, 2020, published at
19 50 Pa.B. 1644 (March 21, 2020), and any renewal of the
20 proclamation of disaster emergency.~~

~~21 Section 4. Section 1409 of the act is amended by adding a <--
22 subsection to read:~~

~~23 Section 1409. Confidentiality, Transference and Removal of
24 Health Records. * * *~~

~~25 (d) The following apply:~~

~~26 (1) The Department of Health or the local board or
27 department of health shall report to a school entity any
28 positive or presumptive case of COVID-19 that occurs in a
29 student or an employee of a school entity, in a provider of
30 services or contractor who works at the school entity or in an~~

~~1 individual who volunteers at the school entity, including any
2 individual who coaches or advises an extracurricular activity
3 sponsored by the school entity. Within twenty four (24) hours of
4 receipt of the information of a positive case of COVID 19 in an
5 employee, a student, a contractor or a volunteer of the school
6 entity under this paragraph, the school entity shall notify
7 employees, contractors, volunteers and the parents of the
8 students who work, volunteer or receive instruction in the same
9 school building or on the same school property as the COVID 19
10 positive employee, contractor, volunteer or student of the
11 existence of the COVID 19 positive employee, contractor,
12 volunteer or student. The school entity shall provide
13 educational support to students who are not permitted to receive
14 instruction at the school entity due to a positive or
15 presumptive case of COVID 19 within the school entity.~~

~~16 (2) As used in this subsection, the following words and
17 phrases shall have the meanings given to them in this paragraph:~~

~~18 "COVID 19" means the novel coronavirus as identified in the
19 proclamation of disaster emergency issued by the Governor on
20 March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and
21 any renewal of the state of disaster emergency.~~

~~22 "Local board or department of health" has the meaning given
23 in section 2(f) of the act of April 23, 1956 (1955 P.L.1510,
24 No.500), known as the "Disease Prevention and Control Law of
25 1955."~~

~~26 "School entity" means any school district, intermediate unit,
27 career and technical center, charter school, regional charter
28 school, cyber charter school, private or nonpublic school.~~

29 SECTION 5. SECTION 1501.8(A) OF THE ACT, ADDED MARCH 27, <--
30 2020 (P.L.62, NO.13), IS AMENDED AND THE SECTION IS AMENDED BY

1 ADDING A SUBSECTION TO READ:

2 SECTION 1501.8. PANDEMIC OF 2020.--(A) [THIS] EXCEPT AS
3 PROVIDED IN SUBSECTION (M.1), THIS SECTION APPLIES ONLY TO THE
4 2019-2020 SCHOOL YEAR AS A RESULT OF THE GLOBAL PANDEMIC
5 DECLARED BY THE WORLD HEALTH ORGANIZATION ON MARCH 11, 2020.

6 * * *

7 (M.1) NOTWITHSTANDING SUBSECTION (A):

8 (1) THE FOLLOWING APPLY TO THE 2020-2021 SCHOOL YEAR AS A
9 RESULT OF THE COVID-19 DISASTER EMERGENCY:

10 (I) NOTWITHSTANDING THE PROVISIONS OF THIS ACT, A SCHOOL
11 ENTITY SHALL RECEIVE A PUPIL TRANSPORTATION SUBSIDY PAYMENT
12 EQUAL TO THE GREATER OF THE AMOUNT CALCULATED FOR REIMBURSEMENT
13 OR THE AMOUNT ALLOCATED TO THE SCHOOL ENTITY FOR THE PRIOR
14 SCHOOL YEAR.

15 (II) TO RECEIVE A PUPIL TRANSPORTATION SUBSIDY PAYMENT EQUAL
16 TO THE AMOUNT ALLOCATED TO THE SCHOOL ENTITY FOR THE PRIOR
17 SCHOOL YEAR, A SCHOOL ENTITY THAT CONTRACTS FOR SCHOOL BUS
18 TRANSPORTATION SERVICES SHALL PAY THE SCHOOL BUS TRANSPORTATION
19 CONTRACTOR FOR THE SCHOOL YEAR IN AN AMOUNT THAT THE SCHOOL BUS
20 TRANSPORTATION CONTRACTOR WOULD HAVE RECEIVED FROM THE SCHOOL
21 ENTITY HAD SCHOOL BUS TRANSPORTATION SERVICES NOT BEEN SO
22 AFFECTED BY THE COVID-19 DISASTER EMERGENCY MINUS THE AMOUNT OF
23 ANY VARIABLE COSTS PROVIDED THE SCHOOL BUS TRANSPORTATION
24 CONTRACTOR CERTIFIES THE VARIABLE COSTS TO THE SCHOOL DISTRICT.

25 (III) THE DEPARTMENT OF EDUCATION SHALL DEVELOP AND PUBLISH
26 GUIDELINES ON VARIABLE COSTS IN CONSULTATION WITH THE
27 PENNSYLVANIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS, THE
28 PENNSYLVANIA SCHOOL BOARDS ASSOCIATION AND THE PENNSYLVANIA
29 SCHOOL BUS ASSOCIATION WITHIN THIRTY (30) DAYS OF THE EFFECTIVE
30 DATE OF THIS PARAGRAPH.

1 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM "VARIABLE
2 COSTS" MEANS THE DIFFERENCE BETWEEN COSTS FOR LABOR, FUEL,
3 TOLLS, MAINTENANCE AND OTHER EXPENSES AS DETERMINED BY THE
4 DEPARTMENT DURING NORMAL OPERATIONS OF SCHOOL BUS TRANSPORTATION
5 AND THOSE SAME COSTS DURING THE COVID-19 DISASTER EMERGENCY.

6 * * *

7 SECTION 6. SECTION 2006-B(D) OF THE ACT IS AMENDED AND THE
8 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:
9 SECTION 2006-B. LIMITATIONS.

10 * * *

11 (D) USE.--[A] SUBJECT TO SUBSECTION (D.1), A TAX CREDIT NOT
12 USED BY THE APPLICANT IN THE TAXABLE YEAR THE CONTRIBUTION WAS
13 MADE OR IN THE YEAR DESIGNATED BY THE SHAREHOLDER, MEMBER OR
14 PARTNER TO WHOM THE CREDIT WAS TRANSFERRED UNDER SECTION 2005-
15 B(E) MAY NOT BE CARRIED FORWARD OR CARRIED BACK AND IS NOT
16 REFUNDABLE OR TRANSFERABLE.

17 (D.1) PANDEMIC RELIEF.--

18 (1) A TAX CREDIT AWARDED TO A BUSINESS FIRM DURING THE
19 2020-2021 OR 2021-2022 FISCAL YEAR THAT CANNOT BE USED BY THE
20 BUSINESS FIRM DURING THE FISCAL YEAR IN WHICH AWARDED MAY BE
21 CARRIED FORWARD AND USED DURING THE TWO TAXABLE YEARS
22 FOLLOWING THE TAXABLE YEAR IN WHICH THE TAX CREDIT WAS
23 AWARDED.

24 (2) TAX CREDITS THAT ARE CARRIED FORWARD UNDER THIS
25 SUBSECTION SHALL NOT DIMINISH THE TOTAL AMOUNT OF TAX CREDITS
26 THAT MAY OTHERWISE BE AWARDED TO A BUSINESS FIRM UNDER
27 SECTION 2005-B OR THAT MAY BE AWARDED TO ALL BUSINESS FIRMS
28 IN THE AGGREGATE UNDER SUBSECTION (A).

29 * * *

30 Section 5 7. This act shall take effect as follows:

<--

1 (1) The amendment of section 1202.1(a) shall take effect
2 in 60 days.

3 (2) The remainder of this act shall take effect
4 immediately.