

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1330 Session of 2021

INTRODUCED BY ORTITAY, HILL-EVANS, GAYDOS AND CIRESI, MAY 5, 2021

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 24, 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," providing for supplemental online
6 course initiative; and establishing the Online Course
7 Clearinghouse Restricted Account.

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:

ARTICLE XV-K

SUPPLEMENTAL ONLINE COURSE INITIATIVE

15 Section 1501-K. Definitions.

16 The following words and phrases when used in this article
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Account." The Online Course Clearinghouse Restricted
20 Account established under section 1502-K(g).

1 "Clearinghouse." The central online clearinghouse
2 established under section 1502-K.

3 "Department." The Department of Education of the
4 Commonwealth.

5 "Home education program." A program conducted in compliance
6 with section 1327.1.

7 "Institution of higher education." The term includes any of
8 the following:

9 (1) A community college operating under Article XIX-A.

10 (2) A university within the State System of Higher
11 Education.

12 (3) The Pennsylvania State University.

13 (4) The University of Pittsburgh.

14 (5) Temple University.

15 (6) Lincoln University.

16 (7) Any other institution that is designated as "State-
17 related" by the Commonwealth.

18 (8) The Thaddeus Stevens College of Technology.

19 (9) Any accredited private or independent college or
20 university.

21 (10) Any private licensed school as defined in the act
22 of December 15, 1986 (P.L.1585, No.174), known as the Private
23 Licensed Schools Act.

24 "Keystone Exam." An assessment developed or caused to be
25 developed by the department under 22 Pa. Code § 4.51b (relating
26 to Keystone Exams).

27 "Nonpublic school." A school, other than a public school,
28 located within this Commonwealth where a Commonwealth resident
29 may legally fulfill the compulsory school attendance
30 requirements of this act and that meets the applicable

1 requirements of Title VI of the Civil Rights Act of 1964 (Public
2 Law 88-352, 78 Stat. 241).

3 "Online course." A course of study that uses technology in
4 order to provide a significant portion of its curriculum and to
5 deliver a significant portion of instruction to students through
6 the Internet or other electronic means. The term shall include
7 all services and materials related to such course.

8 "Provider." An individual or a nonprofit or for-profit
9 organization, business, institution of higher education or
10 school entity which has submitted one or more online courses to
11 the Department of Education for inclusion in the clearinghouse
12 established under this article.

13 "School entity." A school district, joint school district,
14 charter school, regional charter school, cyber charter school,
15 intermediate unit or area career and technical school.

16 "Secretary." The Secretary of Education of the Commonwealth.
17 Section 1502-K. Clearinghouse for online course offerings.

18 (a) Duty to establish.--The department shall establish a
19 central online clearinghouse which shall at a minimum include an
20 online database of online courses for students enrolled in
21 grades six through twelve and shall be accessible by school
22 entities, nonpublic schools, home education programs and the
23 general public. In establishing the clearinghouse, the
24 department shall adhere to the following implementation
25 schedule:

26 (1) From the date of establishment of the clearinghouse
27 which shall be no later than the commencement of the ~~2021~~ <--
28 ~~2022~~ 2022-2023 school year and in each school year <--
29 thereafter, the clearinghouse shall offer online courses for
30 all content areas assessed by a Keystone Exam, as well as

1 online courses which provide supplementary instruction
2 relating to a Keystone Exam, free of charge to school
3 entities. In providing these online courses, the department
4 shall develop or cause to be developed online courses which
5 meet the requirements of subsection (c)(2). The department
6 may utilize any existing online courses it has already
7 developed for content areas assessed by a Keystone Exam in
8 meeting this requirement.

9 (2) Beginning in the ~~2022-2023~~ 2023-2024 school year and <--
10 in each school year thereafter, the clearinghouse shall offer
11 those online courses from providers that have been approved
12 under subsection (c) in addition to the courses required to
13 be offered under paragraph (1). Online courses included in
14 the clearinghouse from providers under this paragraph shall
15 be subject to purchase under the provisions of subsection
16 (f).

17 (b) Responsibilities of department.--The department shall:

18 (1) Create an online database that catalogs those online
19 courses for which an application was approved under
20 subsection (c) and which the department shall develop or
21 cause to be developed and make the database available to
22 school entities, nonpublic schools, home education programs
23 and the general public.

24 (2) Construct the database provided for in paragraph (1)
25 in such a way as to:

26 (i) Provide information on each online course listed
27 in the database, including, but not limited to, a
28 description of the content and applicable grade levels of
29 each online course.

30 (ii) Provide each school entity, nonpublic school or

1 home education program which has utilized an online
2 course from the clearinghouse the opportunity to present
3 feedback and rate the online course which the school
4 entity, nonpublic school or home education program has
5 utilized. In providing feedback, each school entity,
6 nonpublic school or home education program may, with
7 discretion and in compliance with all applicable Federal
8 and State laws, share on the database personal comments
9 received by the school entity, nonpublic school or home
10 education program from parents and students about the
11 online course.

12 (iii) Display feedback and a cumulative rating of an
13 online course as a part of the information provided about
14 the online course.

15 (iv) Facilitate communication between school
16 entities, nonpublic schools or home education programs
17 and providers of online courses cataloged in the
18 clearinghouse to expedite the purchasing of those online
19 courses.

20 (3) At least annually, or at any time the status of an
21 online course changes, update the database provided for in
22 paragraph (1).

23 (4) Collect application fees provided for in subsection
24 (d) and deposit the fees into the account.

25 (5) Utilize the funds in the account, including interest
26 on the funds, to pay expenses incurred by the department in
27 carrying out its duties under this article.

28 (6) Explore the possibility for Federal and private
29 funding to support the clearinghouse.

30 (7) Upon request, provide assistance to school districts

1 which have been declared to be in financial recovery status
2 or identified for financial watch status under Article VI-A
3 by facilitating the school districts' search for low-cost or
4 no-cost online course options.

5 (c) Applications.--The department shall develop an
6 application and an application process that specify the time,
7 form and manner by which providers may submit their online
8 course offerings to the department for inclusion in the
9 clearinghouse. The department shall approve applications under
10 one of the following procedures:

11 (1) In the case of an online course which does not
12 provide instruction in a content area assessed by a Keystone
13 Exam and which is not used to provide supplementary
14 instruction relating to a Keystone Exam, a provider may
15 submit an application to the department for approval of the
16 online course through a certification process. The
17 application for this process shall include:

18 (i) A notarized affidavit certifying that the online
19 course being submitted for inclusion in the clearinghouse
20 is aligned to the State academic standards for education
21 provided for in 22 Pa. Code Ch. 4 (relating to academic
22 standards and assessment).

23 (ii) Evidence that the online course being submitted
24 for inclusion in the clearinghouse fulfills at least one
25 of the following criteria:

26 (A) has been approved by another state for use
27 by its public schools;

28 (B) has been developed by a provider that has
29 been accredited by a national accreditation body
30 recognized by the United States Department of

1 Education; or

2 (C) has been designed by a school entity that
3 utilizes the online course or provides the online
4 course to another school entity for its use.

5 (iii) Evidence that the online course being
6 submitted for inclusion in the clearinghouse includes an
7 assessment component for determining student performance.

8 (2) In the case of an online course which provides
9 instruction in a content area assessed by a Keystone Exam or
10 which is used to provide supplementary instruction relating
11 to a Keystone Exam, a provider shall submit an application to
12 the department for approval of the online course through a
13 department review process. The department shall perform a
14 review of the online course to confirm that the online course
15 meets the following criteria:

16 (i) Is aligned to the State academic standards for
17 education provided for in 22 Pa. Code Ch. 4.

18 (ii) Provides a detailed and quality curriculum and
19 accountability plan.

20 (iii) Includes an assessment component for
21 determining student proficiency.

22 (iv) Is adapted to the age, development and needs of
23 the students.

24 (3) In the case of an online course which does not
25 provide instruction in a content area assessed by a Keystone
26 Exam and which is not used to provide supplementary
27 instruction relating to a Keystone Exam, a provider may
28 ~~voluntarily~~ submit an application to the department for <--
29 approval of the online course through the department review
30 process established in paragraph (2).

1 (d) Fees, application review and approval.--The following
2 shall apply to the establishment of fees and the review and
3 approval of applications:

4 (1) The department may establish a nonrefundable
5 administrative fee not to exceed \$75 for the purpose of
6 reviewing each application submitted by a provider under
7 subsection (c)(1).

8 (2) The department may establish a nonrefundable
9 administrative fee not to exceed \$750 for the purpose of
10 reviewing each application submitted by a provider under
11 subsection (c)(2) or (3).

12 (3) If, after a review of an application, the department
13 determines that the application meets the applicable
14 requirements under subsection (c), the department shall
15 approve the application, notify the provider of the approval
16 and include the online course in the database provided for
17 under subsection (b)(1) until such time as the provider
18 requests that the online course be removed or the department
19 removes the online course under the provisions of paragraph
20 (5).

21 (4) If, after a review of an application, the department
22 determines that the application does not meet the applicable
23 requirements under subsection (c), the department shall
24 withhold approval of the application and notify the provider
25 of the reason approval was withheld so that the provider may
26 revise and resubmit the application. Any application that has
27 been resubmitted for review shall be subject to the
28 associated administrative fee authorized by this subsection.

29 (5) The department may revisit and review any approved
30 application at any time and remove the associated online

1 course from the database provided for under subsection (b) (1)
2 if the department determines that:

3 (i) the information contained in the application was
4 false or misleading or is no longer accurate;

5 (ii) the online course has been materially changed
6 or revised in such a way that the approval previously
7 granted for the online course should not apply and the
8 provider of the online course has not submitted an
9 application to the department seeking approval of the
10 revisions to the online course in accordance with the
11 application and fee requirements of this section; or

12 (iii) the standards applicable to the course have
13 materially changed in such a way that the approval
14 previously granted for the online course should not apply
15 and the provider of the online course has not submitted
16 an application to the department within 30 days seeking
17 approval of the online course with revisions to address
18 the revised standards in accordance with the application
19 and fee requirements of this section.

20 (e) Appeal.--A determination by the department that an
21 online course which provides instruction in a content area
22 assessed by a Keystone Exam or which is used to provide
23 supplementary instruction relating to a Keystone Exam does not
24 meet the criteria under subsection (c) (2) shall be appealable
25 under 2 Pa.C.S. (relating to administrative law and procedure).

26 (f) Contracts for the provision of courses cataloged in the
27 clearinghouse.--The following shall apply to contracts entered
28 into by school entities, nonpublic schools or home education
29 programs and providers of online courses cataloged in the
30 clearinghouse:

1 (1) The purchase price and other payment and contract
2 terms of an online course cataloged in the clearinghouse
3 shall be determined by direct negotiations between a school
4 entity, nonpublic school or home education program and a
5 provider.

6 (2) A school entity, nonpublic school or home education
7 program shall not be required to pay more than 60% of the
8 total purchase price per participating student for an online
9 course prior to a student's completion of the online course.
10 Upon a student's completion of an online course, the school
11 entity, nonpublic school or home education program shall pay
12 the provider the remainder of the total purchase price per
13 participating student for each student that completed the
14 online course.

15 (3) Immediately upon commencing negotiations of the
16 terms of a contract for an online course, a provider shall
17 provide the school entity, nonpublic school or home education
18 program with information regarding refund policies and the
19 process for contesting payment amounts.

20 (g) Online Course Clearinghouse Restricted Account.--

21 (1) There is established a restricted revenue account in
22 the General Fund to be known as the Online Course
23 Clearinghouse Restricted Account.

24 (2) The account shall consist of application fees
25 collected under subsection (d), fines collected under section
26 1504-K and any interest generated by funds in the account.

27 (3) The funds in the account are appropriated to the
28 department on a continuing basis for the purposes of paying
29 expenses incurred by the department in carrying out its
30 duties relating to the administration of the clearinghouse

1 under this article.

2 Section 1503-K. School entities.

3 A school entity may utilize any online course made available
4 through a school entity, through the clearinghouse or through
5 any other source. A school entity that offers online courses to
6 students shall:

7 (1) Determine how instruction relating to an online
8 course shall be delivered.

9 (2) Establish policies and procedures for student
10 eligibility and participation, including a policy on the
11 selection of online courses made available to students by the
12 school entity. The policies and procedures shall be made
13 accessible to parents and students and posted on the school
14 entity's publicly accessible Internet website.

15 (3) Ensure that parents and students are made aware of
16 the opportunity for online learning and make information
17 about available online courses easily accessible to parents
18 and students.

19 Section 1504-K. Penalties.

20 (a) Participation prohibited.--If the department determines
21 that a provider intentionally submitted false or misleading
22 information on an application, the provider shall be prohibited
23 from participating in the clearinghouse for a period of five
24 years.

25 (b) Fine.--In addition to the penalty provided under
26 subsection (a), a provider may be assessed a fine of up to
27 \$1,000 for each application on which the provider was found by
28 the department to have intentionally submitted false or
29 misleading information.

30 (c) Deposit of fines.--Any fines assessed in accordance with

1 this section shall be deposited into the account.

2 (d) Appeal.--A determination by the department that a
3 provider intentionally submitted false or misleading information
4 on an application shall be appealable under 2 Pa.C.S. (relating
5 to administrative law and procedure).

6 Section 1505-K. Report.

7 The secretary shall submit a report to the Governor, the
8 chairperson and minority chairperson of the Education Committee
9 of the Senate and the chairperson and minority chairperson of
10 the Education Committee of the House of Representatives and post
11 the report on the department's publicly accessible Internet
12 website no later than ~~June 30, 2026~~ JUNE 30, 2027. The report <--
13 shall at a minimum include all of the following information:

14 (1) The number of students participating in online
15 courses.

16 (2) The number of students participating in online
17 courses from the clearinghouse.

18 (3) The number of online courses available through the
19 clearinghouse.

20 (4) A description of the types of online courses
21 available through the clearinghouse.

22 (5) An assessment of the academic impact of online
23 courses on the participating students.

24 (6) Recommendations for improving the clearinghouse.

25 Section 1506-K. Construction.

26 Nothing in this article shall be construed:

27 (1) To prevent a school entity from establishing and
28 offering its own online course or program.

29 (2) To prevent a school entity or school entity
30 personnel from:

1 (i) supplementing an online course;
2 (ii) providing assistance, tutoring or enrichment to
3 a student enrolled in an online course;
4 (iii) using the content of an online course in
5 instruction delivered by school district personnel; or
6 (iv) monitoring a student's progress and attention
7 to instruction in an online course.

8 (3) To require a student to participate in an online
9 course offered by a school entity.

10 (4) To supersede or preempt the rights, remedies and
11 procedures afforded to school employees or labor
12 organizations under Federal or State law, including the act
13 of July 23, 1970 (P.L.563, No.195), known as the Public
14 Employe Relations Act, or any provision of a collective
15 bargaining agreement negotiated between a school entity and
16 an exclusive representative of the employees in accordance
17 with that act.

18 Section 1507-K. Regulations.

19 The State Board of Education may promulgate regulations under
20 the act of June 25, 1982 (P.L.633, No.181), known as the
21 Regulatory Review Act, necessary to establish approval periods
22 for courses approved under section 1502-K(d) and to implement
23 this article.

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