

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2360 Session of
2022

INTRODUCED BY PENNYCUICK, LEWIS DELROSSO, OWLETT, POLINCHOCK,
MCNEILL, MERSKI, SMITH, GUENST, GILLEN, ROWE, BERNSTINE,
HELM, DOWLING, COOK, HENNESSEY AND M. MACKENZIE,
MARCH 8, 2022

REFERRED TO COMMITTEE ON EDUCATION, MARCH 8, 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 military education
6 opportunity account.

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 an
11 article to read:

12 ARTICLE XX-L

13 MILITARY EDUCATION OPPORTUNITY ACCOUNT

14 Section 2001-L. Short title.

15 This article shall be known and may be cited as the Military
16 Education Opportunity Account Act.

17 Section 2002-L. Definitions.

18 The following words and phrases when used in this article
19 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Applicant." A parent who applies for a military education
3 opportunity account under section 2003-L(b) on behalf of an
4 eligible student.

5 "Department." The Department of Education of the
6 Commonwealth.

7 "Eligible student." A school-age child who meets the
8 requirements under section 2003-L(b) and whose parent has
9 entered into an agreement under section 2003-L(d).

10 "Institution of higher education." As defined under section
11 118(c).

12 "Military education opportunity account." A spending account
13 established and administered by the State Treasury, and
14 controlled by a parent, for a school-age child with money that
15 may be spent on a qualified education expense as provided for
16 under section 2005-L.

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

23 "Parent." An individual who:

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

25 (2) either:

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

27 or

28 (ii) keeps in the individual's home a student and
29 supports the student gratis as if the student were a
30 lineal descendant of the individual.

1 "Participating entity."

2 (1) Any of the following where a school-age child
3 receives instruction under section 2003-L(d):

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

6 (ii) An institution of higher education.

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

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

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

16 "Program." The Military Education Opportunity Account
17 Program established under section 2003-L(a).

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

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

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

25 "Student with a disability." A school-age child who has been
26 identified, in accordance with 22 Pa. Code Ch. 14 (relating to
27 special education services and programs), as a "child with a
28 disability," as defined in 34 CFR 300.8(a) (relating to child
29 with a disability).

30 Section 2003-L. Establishment, application and agreement.

1 (a) Establishment.--The Military Education Opportunity
2 Account Program is established as a program of the department.

3 (b) Individuals who may apply.--A parent may apply for a
4 military education opportunity account for a school-age child
5 who:

6 (1) is a child of a parent who is on full-time active-
7 duty status in the armed forces of the United States,
8 including members of the National Guard and reserve on active
9 duty orders under 10 U.S.C. §§ 12301 (relating to reserve
10 components generally) and 12401 et seq. (relating to Army and
11 Air National Guard of the United States: status) or was
12 killed in the line of duty; or

13 (2) participated in the program in the prior year and is
14 renewing an agreement under subsection (i) by filing an
15 application with the department, in a manner and on a form
16 provided by the department.

17 (c) Application form.--The form may not exceed one page that
18 measures 8.5 inches by 11 inches and may be filled out and
19 submitted through the department's publicly accessible Internet
20 website.

21 (d) Review and approval.--The department shall review the
22 application to determine if the applicant meets the requirements
23 under subsection (b). If the requirements have been met, the
24 department shall approve the application and enter into an
25 agreement with the applicant. The agreement shall provide that:

26 (1) The school-age child withdraw from public school and
27 receive instruction in this Commonwealth from a participating
28 entity for the school year for which the agreement applies.

29 (2) The school-age child not accept a scholarship in the
30 educational improvement tax credit program under Article XX-B

1 or the opportunity scholarship tax credit program under
2 Article XX-B.

3 (3) The parent will receive a grant on behalf of the
4 school-age child, in the form of money deposited under
5 section 2004-L in the military education opportunity account.

6 (4) The money in the military education opportunity
7 account may be expended only as authorized under this
8 article.

9 (e) Military education opportunity account.--

10 (1) If an agreement is entered into under subsection
11 (d), a military education opportunity account shall be
12 established. The military education opportunity account shall
13 be administered by the State Treasury under this article.

14 (2) Failure of a parent to enter into an agreement under
15 subsection (d) for a school year shall not preclude the
16 parent from entering into an agreement for a subsequent
17 school year if the school-age child is eligible under
18 subsection (b).

19 (f) Term of agreement.--Except as otherwise provided under
20 this article, an agreement entered into under subsection (d)
21 shall be valid for one school year.

22 (g) Termination.--

23 (1) Notwithstanding subsection (h), an agreement entered
24 into under subsection (d) may be terminated early.

25 (2) If an agreement is terminated early by either the
26 parent or the department, all available money in the military
27 education opportunity account shall revert to the State
28 Treasury and be used in the resident school district.

29 (h) Automatic termination.--

30 (1) An agreement entered into under subsection (d) shall

1 terminate automatically if the school-age child no longer
2 resides in this Commonwealth.

3 (2) The parent shall notify the department if the child
4 no longer resides in this Commonwealth within 15 days of the
5 change of residence. After the child's parent has notified
6 the department, money remaining in the military education
7 opportunity account shall revert to the State Treasury and be
8 used in the resident school district.

9 (i) Renewal.--

10 (1) Subject to subsection (l), an agreement entered into
11 under subsection (d) may be renewed for each school year for
12 the school-age child.

13 (2) Failure of a parent to renew an agreement for a
14 school year shall not preclude a parent from renewing the
15 agreement for a subsequent school year if the school-age
16 child remains eligible under subsection (b).

17 (j) Number.--A parent may enter into separate agreements
18 under subsection (d) for each school-age child of the parent.
19 Not more than one military education opportunity account may be
20 established for a school-age child.

21 (k) Explanation.--Upon entering into an agreement under
22 subsection (d) or renewing an agreement under subsection (i),
23 the department shall provide the parent with a written
24 explanation of the authorized uses of the money in the military
25 education opportunity account and the responsibilities of the
26 parent, the department and the State Treasury under the
27 agreement and this article.

28 (l) Application and renewal period.--

29 (1) A parent may apply or seek renewal between January 1
30 and April 1 for the following school year.

1 (2) The department shall notify parents and school
2 districts of approved applications by April 30.
3 Section 2004-L. Amount.

4 (a) General rule.--If a parent of an eligible student enters
5 into or renews an agreement under section 2003-L with the
6 department for a school year, the Secretary of Education shall
7 deposit a grant for that school year in the military education
8 opportunity account of the eligible student. The amount of the
9 grant shall be as follows:

10 (1) For an eligible student who does not have a
11 disability, the grant amount shall be equal to the State
12 revenue received by school districts minus the State revenue
13 received for transportation divided by the State total
14 average daily membership.

15 (2) For an eligible student with a disability, the grant
16 amount shall be based on the category of disability by which
17 the resident school district is required to categorize the
18 eligible student for the purpose of the report required under
19 section 1372(8) as follows:

20 (i) For an eligible student in Category 1, multiply
21 the grant amount in paragraph (1) by 1.51.

22 (ii) For an eligible student in Category 2, multiply
23 the grant amount in paragraph (1) by 3.77.

24 (iii) For an eligible student in Category 3A and 3B,
25 multiply the grant amount in paragraph (1) by 7.46.

26 (3) For an eligible student receiving a grant, the
27 amount of basic education funding and other subsidies paid by
28 the department to the resident school district shall be
29 reduced by the grant amount calculated for the student.

30 (4) If a school district's basic education funding and

1 other subsidies are reduced under this section, the resident
2 school district shall include the grant recipient in the
3 resident school district's average daily membership for the
4 purpose of calculating school subsidies.

5 (b) Installments.--The State Treasury shall deposit the
6 money for each grant in quarterly installments under a schedule
7 determined by the State Treasury.

8 (c) Disposition.--The following shall apply to money
9 remaining in a military education opportunity account:

10 (1) For money remaining in a military education
11 opportunity account at the end of a school year, the money
12 may be carried forward to any other school year of the
13 eligible student if the agreement entered into under section
14 2003-L(d) is renewed for the other school year.

15 (2) Subject to paragraph (3), money remaining in a
16 military education opportunity account when an agreement
17 entered into under section 2003-L(d) is not renewed or is
18 terminated shall revert to the resident school district.

19 (3) Money remaining in a military education opportunity
20 account after the school-age child graduates from high school
21 may be used for qualified education expenses under section
22 2005-L for up to two years after the date of high school
23 graduation. After the two-year time period under this
24 paragraph has expired, money remaining in the military
25 education opportunity account shall revert to the General
26 Fund.

27 Section 2005-L. Qualified education expenses.

28 (a) General rule.--Money deposited in a military education
29 opportunity account may be used to pay for any of the following
30 expenses incurred by or associated with the school-age child:

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

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

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

6 (4) Fees for a nationally norm-referenced test, advanced
7 placement or similar examination or standardized examination
8 required for admission to an institution of higher education
9 and career and technical education examination fees.

10 (5) Fees for purchasing a curriculum or instructional
11 materials required to administer the curriculum.

12 (6) If the eligible student is a student with a
13 disability, fees for special instruction or special services
14 provided to the eligible student, including, but not limited
15 to, occupational, physical, speech and behavioral therapies.

16 (7) Other valid educational expenses approved by the
17 department.

18 (b) Prohibitions.--A participating entity that receives a
19 payment for qualified education expenses authorized under
20 subsection (a) may not:

21 (1) Refund a portion of the payment directly to the
22 parent who made the payment.

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

25 (c) Refund.--A participating entity shall deposit a refund
26 for an item that is being returned or an item or service that
27 has not been provided directly to the military education
28 opportunity account of the school-age child from which payment
29 for the item or service was made.

30 (d) Payment system.--

1 (1) The State Treasury shall develop a system that
2 enables a parent to pay for services provided by
3 participating entities under the program by electronic money
4 transfer, including electronic payment systems or other means
5 of electronic payment that the State Treasury determines to
6 be commercially viable and cost effective.

7 (2) The State Treasury may not adopt a system that
8 requires a parent to be reimbursed for out-of-pocket
9 expenses.

10 (e) Source of payment.--

11 (1) An individual may not deposit personal money into or
12 otherwise make gifts or contributions of private money to a
13 military education opportunity account.

14 (2) Nothing in this section shall be construed to
15 prohibit a parent or school-age child from paying for
16 qualified education expenses from a source other than the
17 military education opportunity account.

18 Section 2006-L. Audits and penalties.

19 (a) Audit.--The State Treasury may provide for audits of a
20 military education opportunity account as the State Treasury
21 determines necessary.

22 (b) Penalties.--If the State Treasury determines that money
23 in a military education opportunity account has been expended
24 for an expense other than a qualified education expense under
25 section 2005-L(a), the State Treasury may do any of the
26 following:

27 (1) Freeze or dissolve the military education
28 opportunity account, subject to regulations adopted by the
29 State Treasury providing for notice of the action and
30 opportunity to respond to the notice.

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

4 (3) Impose a civil penalty equal to 300% of the amount
5 in the military education opportunity account prior to the
6 fraudulent use.

7 (4) Disqualify the parent from future participation in
8 the program.

9 Section 2007-L. Accountability standards for a participating
10 entity.

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

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

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

16 (3) Comply with the nondiscrimination policies set forth
17 in section 1981 of the Civil Rights Act of 1964 (Public Law
18 88-352, 42 U.S.C. § 1981) and with section 1521.

19 (4) Comply with the provisions of sections 111 and
20 111.1.

21 (b) Financial accountability standards.--A participating
22 entity shall:

23 (1) Provide parents with a receipt for all qualifying
24 expenses incurred by the participating entity.

25 (2) File with the department prior to the start of the
26 school year financial viability documentation which
27 demonstrates the participating entity's ability to repay
28 \$50,000 or more from the military education opportunity
29 accounts during the school year. The financial viability
30 documentation shall include:

1 (i) a surety bond payable to the Commonwealth in an
2 amount equal to the aggregate amount of money from the
3 military education opportunity accounts expected to be
4 paid during the school year on behalf of eligible
5 students admitted at the participating entity; or

6 (ii) financial information that demonstrates that
7 the participating entity has the ability to pay an
8 aggregate amount equal to the amount of money from the
9 military educational opportunity accounts expected to be
10 paid during the school year on behalf of eligible
11 students admitted to the participating entity.

12 (c) Academic accountability standards.--

13 (1) A parent of an eligible student shall ensure that
14 the department is informed of the eligible student's
15 graduation from high school.

16 (2) The department shall:

17 (i) Ensure compliance with all student privacy laws,
18 including the Family Educational Rights and Privacy Act
19 of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

20 (ii) Administer an annual parental satisfaction
21 survey that shall ask parents of eligible students
22 participating in the program to express:

23 (A) The parents satisfaction with the program.

24 (B) The number of years the eligible student has
25 participated in the program.

26 (C) The parents opinions on other topics, items
27 or issues that the department determines would elicit
28 information about the effectiveness of the program.

29 (d) Participating entity autonomy.--

30 (1) A participating entity shall be autonomous and may

1 not be an agent of the department or the Commonwealth.

2 (2) The department or any other State agency may not
3 regulate the educational program of a participating entity
4 that accepts money from a military education opportunity
5 account.

6 (3) The establishment of the program may not be
7 construed to expand the regulatory authority of the State,
8 the officers of the State or any school district to impose
9 any additional regulation of a participating entity beyond
10 those necessary to enforce the requirements of the program.

11 Section 2008-L. Bar of certain participating entities.

12 (a) General rule.--The department may bar a participating
13 entity from participation in the program if the department
14 establishes that the participating entity has:

15 (1) routinely failed to comply with the accountability
16 standards established in section 2007-L; or

17 (2) failed to provide an eligible student with the
18 educational services funded by the eligible student's
19 military education opportunity account.

20 (b) Notice.--If the department bars a participating entity
21 from participation in the program, the department shall post the
22 decision on the department's publicly accessible Internet
23 website. A participating entity may appeal the department's
24 decision under this section.

25 Section 2009-L. Duties of resident school districts.

26 (a) School records.--A resident school district shall
27 provide a participating entity that has admitted an eligible
28 student participating in the program with a complete copy of the
29 student's school records immediately upon the student's
30 enrollment or when services in the participating entity begin,

1 subject to the Family Educational Rights and Privacy Act of 1974
2 (Public Law 90-247, 20 U.S.C. § 1232g).

3 (b) Transportation.--A resident school district shall
4 provide transportation for an eligible student to and from the
5 participating entity under the same conditions as the resident
6 school district provides transportation of other resident
7 students to nonpublic schools under section 1361. The resident
8 school district shall qualify for State transportation
9 reimbursement for each eligible student transported.

10 Section 2010-L. Legal proceedings.

11 (a) Liability.--No liability shall arise on the part of the
12 agency, the Commonwealth or a public school or school district
13 based on the award or use of a military education opportunity
14 account under this article.

15 (b) Challenges.--If any part of this article is challenged
16 in a State court as violating either the Constitution of the
17 United States or the Constitution of Pennsylvania, parents of
18 eligible students and students who previously had a military
19 education opportunity account shall be permitted to intervene as
20 of right in the lawsuit for the purposes of defending the
21 military education opportunity account program's
22 constitutionality. For the purposes of judicial administration,
23 a court may require that all parents file a joint brief but may
24 not require all parents to join a brief filed on behalf of a
25 named State defendant.

26 (c) Severability.--If any provision of this article or the
27 application thereof to any person or circumstance is held
28 invalid, the invalidity shall not affect other provisions or
29 applications of this article which can be given effect without
30 the invalid provision or application, and to this end the

1 provisions of this article are declared to be severable.

2 Section 2011-L. Listing of participating entities.

3 The department shall annually post on the department's

4 publicly accessible Internet website a listing of all

5 participating entities.

6 Section 2012-L. Regulations.

7 The State Treasury and the department shall jointly develop

8 guidelines as necessary for the administration of this article

9 within 60 days of the effective date of this section.

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