
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1015 Session of
2022

INTRODUCED BY AUMENT, CORMAN, MARTIN, PHILLIPS-HILL, STEFANO AND
J. WARD, JANUARY 11, 2022

REFERRED TO EDUCATION, JANUARY 11, 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," establishing the Pandemic Education
6 Savings Account Grant Program and the COVID-State Fiscal
7 Recovery Restricted Account; and imposing powers and duties
8 on the Department of Education.

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

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

14 ARTICLE XXVI-L

15 PANDEMIC EDUCATION SAVINGS ACCOUNT GRANT PROGRAM

16 Section 2601-L. Scope of article.

17 This article relates to the Pandemic Education Savings
18 Account Grant Program.

19 Section 2602-L. Definitions.

20 The following words and phrases when used in this article
21 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 department and controlled by a parent for a school-age
4 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 "COVID-19." The coronavirus disease 2019, an infectious
10 disease caused by severe acute respiratory syndrome coronavirus
11 2 that was first identified during December 2019 in Wuhan,
12 China.

13 "COVID-19 incongruence." School district protocols for
14 COVID-19, including masking requirements, the separation or
15 isolation of students, or COVID-19 testing requirements, that a
16 parent or guardian finds to have the effect of substantially
17 interfering with a student's educational performance,
18 opportunities or benefits.

19 "Department." The Department of Education of the
20 Commonwealth.

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

24 "Institution of higher education." As defined under section
25 118(c).

26 "Nonpublic school." A school, other than a public school,
27 located in this Commonwealth where a Commonwealth resident may
28 legally fulfill the compulsory attendance requirements of this
29 act that complies with section 1521 and meets the applicable
30 requirements of Title VI of the Civil Rights Act of 1964 (Public

1 Law 88-352, 78 Stat. 241).

2 "Parent." An individual who:

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

4 (2) either:

5 (i) has legal custody or guardianship of a school-
6 age child; or

7 (ii) keeps in the individual's home a school-age
8 child and supports the school-age child gratis as if the
9 school-age child were a lineal descendant of the
10 individual.

11 "Participating entity."

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

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

16 (ii) An institution of higher education.

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

19 (iv) A tutor who is a teacher licensed in a state,
20 has taught at an eligible postsecondary institution and
21 is a subject matter expert or a tutor or tutoring agency
22 otherwise approved by the department.

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

26 "Program." Pandemic Education Savings Account Grant Program
27 established under section 2603-L(a).

28 "Public school." A school district, charter school, cyber
29 charter school, regional charter school, intermediate unit or
30 area career and technical school.

1 "Resident school district." The school district in which a
2 school-age child resides.

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

5 "Student with a disability." As defined in 22 Pa. Code §
6 14.101 (relating to definitions).
7 Section 2603-L. Pandemic Education Savings Account Grant
8 Program.

9 (a) Establishment.--The Pandemic Education Savings Account
10 Grant Program is established in the department.

11 (b) Eligibility.--A parent of a school-age child may apply
12 for an account for the school-age child if all of the following
13 requirements are met:

14 (1) The family income is no greater than 185% of the
15 Federal poverty level.

16 (2) The school-age child attends a public school where
17 the school-age child is subject to COVID-19 incongruence.

18 (c) Application period.--The department shall approve
19 applications for accounts on a first-come, first-served basis
20 provided that money remains available for that purpose.

21 (d) Application form.--The department shall develop a form
22 for the application which may not exceed one page that measures
23 8.5 inches by 11 inches and may be filled out and submitted
24 through the department's publicly accessible Internet website.

25 (e) Review and approval.--

26 (1) The department shall review a timely submitted
27 application to determine if the applicant meets the
28 requirements under subsection (c). If the requirements have
29 been met, the department shall approve the application and
30 enter into an agreement with the applicant.

1 (2) The agreement shall provide that:

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

5 (ii) The money in the account may be expended only
6 as authorized under this article.

7 (f) Account.--If an agreement is entered into under
8 subsection (e), an account shall be established in the
9 department. The account shall be administered by the Secretary
10 of Education in accordance with this article.

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

15 (h) Termination.--

16 (1) Notwithstanding subsection (i), an agreement entered
17 into under subsection (e) may be terminated early in
18 accordance with this section.

19 (2) If an agreement is terminated early by the parent or
20 department, all available money in the account shall revert
21 to the Commonwealth and be used in the resident school
22 district.

23 (i) Automatic termination.--

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

27 (2) The parent shall notify the department if the
28 school-age child no longer resides in this Commonwealth
29 within 15 days of the change of residence. After the parent
30 has notified the department, money remaining in the account

1 shall revert to the Commonwealth and be used by the resident
2 school district prior to the change of residence.

3 (j) Number.--A parent may enter into a separate agreement
4 under subsection (e) for each school-age child of the parent.
5 Not more than one account may be established for a school-age
6 child.

7 (k) Explanation.--After entering into an agreement under
8 subsection (e), the department shall provide the parent with a
9 written explanation of the authorized uses of the money in the
10 account and the responsibilities of the parent and the
11 department under the agreement and this article.

12 (l) Application notification.--The department shall notify
13 parents and school districts of approved applications within 30
14 days of receiving the timely filed applications.

15 Section 2604-L. Amount.

16 (a) General rule.--If a parent of a school-age child enters
17 into an agreement under section 2603-L with the department for a
18 school year, the Secretary of Education shall approve a \$7,000
19 grant for that school year in the eligible student's account,
20 and the department shall transfer quarterly payments for a total
21 of \$7,000 from the COVID-State Fiscal Recovery Restricted
22 Account into the eligible student's account.

23 (b) Proof of purchase.--A parent of a school-age child who
24 enters into an agreement under section 2603-L with the
25 department shall provide proof of purchase of a qualified
26 education expense under section 2605-L to the department within
27 30 days of the date of the purchase. Failure to provide the
28 proof of purchase required under this subsection may result in a
29 delay of a payment transfer under subsection (a) or termination
30 of participation in the program.

1 (c) Disposition.--

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

5 (2) Subject to paragraph (3), money remaining in an
6 account when an agreement entered into under section 2603-L
7 is terminated shall revert to the resident school district.

8 (3) Money remaining in an account after the eligible
9 student graduates from high school may be used for qualified
10 education expenses under section 2605-L for up to two years
11 after the date of high school graduation of the eligible
12 student. After the two-year time period under this paragraph
13 has expired, money remaining in the account shall revert to
14 the General Fund.

15 Section 2605-L. Qualified education expenses.

16 (a) General rule.--Money deposited into an account may be
17 used to pay for any of the following expenses incurred by or
18 associated with the eligible student:

19 (1) COVID-19 mitigation supplies, including masks, hand
20 sanitizer and other resources deemed effective at preventing
21 the spread of coronavirus.

22 (2) Tuition and fees charged by a participating entity.

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

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

27 (5) Fees for a nationally norm-referenced test, advanced
28 placement or similar examination or standardized examination
29 required for admission to an institution of higher education
30 and career and technical education examination fees.

1 (6) Fees for purchasing curriculum or instructional
2 materials required to administer curriculum.

3 (7) If the eligible student is a student with a
4 disability, fees for special instruction or special services
5 provided to the eligible student, including occupational,
6 physical, speech and behavioral therapies.

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

10 (9) Fees for counseling services related to academic
11 achievement or social and emotional development.

12 (10) Expenses for transportation to a participation
13 entity.

14 (11) Other valid educational expenses approved by the
15 department.

16 (b) Assistance.--The department shall provide assistance to
17 a parent of a school-age child who entered into an agreement
18 under section 2603-L with the department in making decisions
19 regarding the use of the account and the qualified education
20 expenses authorized under subsection (a), including, but not
21 limited to, which potential services and content may best meet
22 the needs of the school-age child.

23 (c) Prohibitions.--A participating entity that receives a
24 payment for qualified education expenses authorized under
25 subsection (a) may not:

26 (1) Refund all or a portion of the payment directly to
27 the parent who made the payment.

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

30 (d) Refund.--A participating entity shall deposit a refund

1 for an item that is being returned or an item or service that
2 has not been provided directly to the account of the eligible
3 student from which payment for the item or service was made.

4 (e) Payment system.--

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

11 (2) The department may contract with a private entity to
12 develop the payment system.

13 (3) The department may not adopt a system that requires
14 a parent to be reimbursed for out-of-pocket expenses.

15 (f) Source and amount of payment.--

16 (1) Accounts shall be funded by the COVID-State Fiscal
17 Recovery Restricted Account, which is established in the
18 State Treasury.

19 (2) Not more than \$500,000,000 from money received by
20 the Commonwealth from the American Rescue Plan Act of 2021
21 (Public Law 117-2, 135 Stat. 4) may be transferred to the
22 COVID-State Fiscal Recovery Restricted Account for the
23 purpose of funding accounts.

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

27 (4) Nothing in this section shall be construed to
28 prohibit a parent or school-age child from paying for
29 qualified education expenses from a source other than the
30 account.

1 Section 2606-L. Audits.

2 (a) Duty to conduct.--The Auditor General shall annually
3 conduct an audit of the program to ensure compliance with
4 section 2605-L.

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

9 (1) Freeze or dissolve the account, subject to
10 regulations adopted by the department providing for notice to
11 the parent of the action and opportunity to respond to the
12 notice.

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

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

18 (4) Disqualify the parent from future participation in
19 the program.

20 Section 2607-L. Accountability standards for participating
21 entities.

22 (a) Duties.--A participating entity shall:

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

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

27 (3) Comply with the nondiscrimination policies stated in
28 section 1521 of this act and section 101 of the Civil Rights
29 Act of 1991 (Public Law 102-166, 42 U.S.C. § 1981).

30 (4) Comply with the provisions of sections 111 and

1 111.1.

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

6 (c) Academic accountability standards.--

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

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

13 (d) Participating entity autonomy.--

14 (1) A participating entity shall be autonomous and shall
15 not be deemed an agent of the department or the Commonwealth
16 when acting in accordance with this article.

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

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

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

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

29 (1) routinely failed to comply with the accountability
30 standards established in section 2607-L; or

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

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

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

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

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

14 Section 2610-L. Legal proceedings.

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

18 (b) Challenges.--

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

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

29 (c) Severability.--If any provision of this article or the
30 application thereof to any person or circumstance is held

1 invalid, the invalidity shall not affect other provisions or
2 applications of this article which can be given effect without
3 the invalid provision or application. The provisions of this
4 article are declared to be severable.

5 Section 2611-L. Listing of participating entities.

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

9 Section 2612-L. Guidelines.

10 The department shall develop guidelines as necessary for the
11 administration of this article within 10 days of the effective
12 date of this section.

13 Section 2. This act shall take effect immediately.