

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 886 Session of 2023

INTRODUCED BY KANE, SCHWANK, HAYWOOD, FONTANA, KEARNEY, HUGHES, STREET, SANTARSIERO, COMITTA, BREWSTER, CAPPELLETTI, COSTA, TARTAGLIONE, COLLETT AND DILLON, AUGUST 15, 2023

REFERRED TO EDUCATION, AUGUST 15, 2023

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 pupils and attendance, further
6 providing for definitions and providing for mental health
7 days.

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

10 Section 1. The definition of "excused absence" in section
11 1326 of the act of March 10, 1949 (P.L.30, No.14), known as the
12 Public School Code of 1949, is amended to read:

13 Section 1326. Definitions.--When used in this article, the
14 following words and phrases shall have the following meanings:

15 * * *

16 "Excused absence" shall mean an absence from school which is
17 permitted under section 1329 or 1329.1.

18 * * *

19 Section 2. The act is amended by adding a section to read:

20 Section 1329.1. Mental Health Days.--(a) No later than the

1 beginning of the 2023-2024 school year, each board of directors
2 or governing body of a public, nonpublic or private school shall
3 adopt policies to provide an excused absence from compulsory
4 school attendance required under this act for a mental health
5 day when a student's well-being is at risk due to mental or
6 physical fatigue, regardless of whether the underlying mental
7 health-related condition triggering the fatigue is a certified
8 or uncertified mental health-related condition.

9 (b) The excused absence under subsection (a) shall be
10 categorized as a mental health day.

11 (c) Notwithstanding section 1329 or 22 Pa. Code § 11.25
12 (relating to temporary excusals due to illness or other urgent
13 reasons), a student may use up to two consecutive days for a
14 mental health day. In no case shall a student be permitted to
15 use three or more mental health days in a week or in two or more
16 consecutive weeks. Additional days needed for mental or physical
17 fatigue due to an underlying mental health-related condition
18 shall be permitted under the policies and procedures adopted by
19 the school under section 1329.

20 (d) The accumulated number of excused absences for a mental
21 health day that a school shall permit a student to use for a
22 school year shall be equal to or more than the number of excused
23 absences permitted by the school for absences under section
24 1329(a).

25 (e) Within ninety (90) days of the effective date of this
26 section, the department shall develop and publish guidelines for
27 public schools to implement mental health days. The department
28 shall consider including guidance for a school to integrate the
29 school's responses to student-excused absences for a mental
30 health day into the school's support systems for student well-

1 being. In developing the guidelines, the department shall
2 consult with a student advisory group and school administrators:

3 (1) whose members are directly impacted by student absence
4 rules and policies; and

5 (2) who represent the diversity of the public school
6 population, including diversity in gender identity, family
7 income, race and ethnicity, geography and any other factors the
8 department determines are relevant.

9 (f) As used in this section, the following words and phrases
10 shall have the meanings given to them in this subsection:

11 "Certified mental health-related condition" means a condition
12 or behavior recognized and diagnosed through examination of the
13 student by a physician or mental health professional, including:

14 (1) Attention-deficit/hyperactivity disorder.

15 (2) Anxiety.

16 (3) Obsessive compulsive disorder.

17 (4) Learning and developmental disabilities.

18 (5) Autism.

19 (6) Substance use disorder.

20 (7) Self-harm.

21 (8) Any other similar conditions or behaviors recognized and
22 diagnosed through examination of the student by a physician or
23 mental health professional.

24 "Extended family" means a member of the student's family
25 extending to an aunt, uncle, cousin, niece or nephew who lives
26 in the same community as the student. The family member may be
27 related to the student as a natural relative, by marriage to a
28 natural relative or through the adoption process and may be of
29 any degree up to the third degree.

30 "Fatigue" means a reduction of energy, stamina or focus that

1 impacts mental or physical performance due to stressors or other
2 related certified mental health-related conditions or
3 uncertified mental health-related conditions.

4 "Immediate family" means a member of the student's nuclear
5 family, including any of the following related to the student as
6 a natural relative, by marriage to a natural relative or through
7 the adoption process:

8 (1) A parent, grandparent, sibling or near relative who
9 resides in the same household as the student.

10 (2) A child of the student.

11 "Mental health day" means a day to allow a student to attain
12 care, rest or treatment to address a certified mental health-
13 related condition or uncertified mental health-related
14 condition.

15 "School" means a school district, area career and technical
16 school, charter school, cyber charter school or independent
17 school.

18 "Uncertified mental health-related condition" means a
19 condition or behavior exhibited by a student that has not been
20 diagnosed by a physician or mental health professional, but that
21 causes the student to experience overwhelming feelings of
22 stress, situational grief or trauma-induced suffering which
23 impede learning, including:

24 (1) The death of or a severe injury sustained by a member of
25 the student's immediate family or the student's extended family.

26 (2) The death of the student's emotional support service
27 animal.

28 (3) A school-related incident or event that traumatically
29 affected the student, the student's friend or a staff member,
30 classroom aide, administrator or teacher at the school.

1 (4) A community incident or event that induced trauma for
2 the student.

3 (5) An accident or incident resulting in death or harm,
4 injury or suffering of the student, an immediate or extended
5 family member or a friend of the student regardless of where the
6 accident or incident occurred.

7 (6) An act of bullying of the student by another student at
8 the school, the school grounds or the route used to transverse
9 to and from the school, if the act was reported by the student
10 to the school.

11 (7) Compounding stressors, including academic pressure,
12 burnout and any other factors that impact a student's ability to
13 focus due to poor mental health.

14 (8) Any other similar reason, incident or event triggering
15 mental or physical fatigue due to an underlying mental health-
16 related stressor even though the student has not been diagnosed
17 by a physician or mental health professional.

18 Section 3. This act shall take effect in 60 days.