
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1405 Session of
2010

INTRODUCED BY WILLIAMS, GREENLEAF, D. WHITE AND FOLMER,
JUNE 15, 2010

REFERRED TO EDUCATION, JUNE 15, 2010

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 the Opportunity
6 Scholarship Act.

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 XXV-B

13 OPPORTUNITY SCHOLARSHIP ACT

14 Section 2501-B. Scope of article.

15 This article deals with education opportunities for low-
16 income children residing in school districts with at least one
17 chronically failing school.

18 Section 2502-B. Definitions.

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

1 context clearly indicates otherwise:

2 "Chronically failing school." A school that fits one of the
3 following categories:

4 (1) Out of all the students a school administered a
5 State assessment test to, more than 40% of students scored in
6 the basic or below basic range in both reading and writing
7 and mathematics subject areas in the two prior school years.
8 The designation shall continue until the school's percentage
9 of students in the basic or below basic range for both
10 reading and writing and mathematics meets or exceeds the
11 Statewide percentage.

12 (2) Out of all the students a school administered a
13 State assessment test to, more than 65% of students scored in
14 the basic or below basic range in either reading and writing
15 and mathematics subject areas in the two prior school years.
16 The designation shall continue until the school's percentage
17 of students in the basic or below basic range for both
18 reading and writing and mathematics meets or exceeds the
19 Statewide percentage.

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

22 "Eligible school." A nonpublic school located in this
23 Commonwealth and offering a program of instruction for
24 kindergarten through 12th grade, or a combination of grades that
25 meets the following criteria:

26 (1) Is open to all students who are eligible to
27 participate in the Opportunity Scholarship Program on a
28 space-available basis.

29 (2) Does not discriminate in its admission policies or
30 practices for scholarship applicants enrolled in a public

1 school on the date of the scholarship application on the
2 basis of measures of achievement or aptitude, status as a
3 handicapped person, proficiency in the English language or
4 any other basis that would be illegal if used by a school
5 district.

6 (3) Is in full compliance with all Federal, State and
7 local laws.

8 "Federal poverty level." The official Federal poverty level
9 based on family size, established and adjusted under section
10 673(2) of Subtitle B of the Community Services Block Grant Act
11 (Public Law 97-35, 95 Stat. 511).

12 "Household income." Income as defined for the purposes of
13 determining eligibility for a free or reduced-price lunch under
14 the National School Lunch Program in 42 U.S.C. 1758.

15 "Household income ratio." A percentage determined on a
16 sliding scale with 100% being applicable to household incomes
17 that are equal to or less than the Federal poverty level and 50%
18 being applicable to household incomes that are equal to 2.5
19 times the Federal poverty level.

20 "Low-income child." A child from a household with an income
21 that does not exceed 2.5 times the Federal poverty level for the
22 school year preceding the school year for which an Opportunity
23 Scholarship is to be distributed.

24 Section 2503-B. Establishment.

25 Beginning in the first school year following the effective
26 date of this article, the department shall establish a
27 scholarship program to provide Opportunity Scholarships to help
28 low-income children who reside in a district with at least one
29 school considered a chronically failing school. The scholarship
30 shall pay tuition to an eligible school for the low-income child

1 to attend the eligible school.

2 Section 2504-B. Amount of scholarship.

3 (a) General.--The amount of an Opportunity Scholarship shall
4 equal the sum of 100% of the Commonwealth's annual per-pupil
5 school aid funding amount plus 50% of the local municipality's
6 annual per-pupil school aid funding amount, in each case, with
7 respect to the school district in which the child resides. Such
8 amount shall then be multiplied by the child's household income
9 ratio.

10 (b) Reduction.--With respect to any low-income student who
11 is enrolled in a nonpublic school on the effective date of this
12 article, the amount of the scholarship in subsection (a) shall
13 be reduced by 50%. Scholarships for low-income students enrolled
14 in nonpublic schools on the effective date of this article shall
15 be payable solely from the Educational Innovation Fund
16 established in section 2507-B. The aggregate amount of
17 scholarship funds payable from the Educational Innovation Fund
18 for any one school year shall not exceed 50% of the fund's
19 balance as of August 15th of the year in which such school year
20 commences. In the event that there are insufficient funds in the
21 Educational Innovation Fund in any year to pay 100% of the
22 scholarship awards for low-income students who are enrolled in a
23 nonpublic school on August 15 of the year that the scholarships
24 are to be received, the scholarship amounts to those students
25 will be paid pro rata to all eligible students who timely
26 applied for a scholarship for such academic year.

27 Section 2505-B. Department's powers and duties.

28 (a) Duties.--The department shall:

29 (1) Administer the Opportunity Scholarship application
30 process.

1 (2) Review and verify the income and residence of a
2 scholarship applicant.

3 (3) Compile an inventory of openings in eligible schools
4 available for potential scholarship recipients.

5 (4) Monitor the enrollment of scholarship students in
6 eligible schools and allocate scholarship funds to those
7 schools.

8 (5) Prepare a report to be submitted to the Governor by
9 December 1 of each year that includes at least the following
10 information for the prior school year:

11 (i) The amount of scholarship funds awarded under
12 the scholarship program.

13 (ii) The administrative costs of the scholarship
14 program.

15 (iii) The amount of scholarship funds dispersed on
16 behalf of scholarship recipients to eligible schools that
17 are public schools and a listing of those eligible
18 schools.

19 (iv) The amount of scholarship funds dispersed on
20 behalf of recipients to eligible schools that are
21 nonpublic schools and a listing of those eligible
22 schools.

23 (6) Ensure that a child enrolled in an eligible school
24 who received a scholarship under this article in the prior
25 school year receives a scholarship in each school year of
26 enrollment under the scholarship program, provided that the
27 child remains eligible. If a child does not qualify as a low-
28 income child, that child may continue to receive a partial
29 scholarship until completing the eighth grade, provided that
30 the child continues to meet all other eligibility

1 requirements. The scholarship shall be reduced and the family
2 shall contribute an amount to be set by the department based
3 on the family's income.

4 (b) Report.--The department shall make the annual report
5 available to the parents or guardians of scholarship recipients
6 and to members of the public.

7 (c) Schools.--The department shall require that an eligible
8 school which admits a child receiving an Opportunity
9 Scholarship:

10 (1) In the event that more children apply for admission
11 under the scholarship program than there are openings at an
12 eligible school, determine through a lottery which children
13 are selected for admission, except that preference for
14 enrollment may be given to siblings of students who are
15 enrolled in the eligible school. The lottery shall be
16 conducted by each individual school.

17 (2) Not discriminate on any illegal basis. Nothing shall
18 prohibit an eligible school from limiting admission to a
19 particular grade level or to areas of concentration of the
20 eligible school, such as mathematics, science or the arts.

21 Section 2506-B. Reduction in amount.

22 Notwithstanding any other provision to the contrary:

23 (1) For each Opportunity Scholarship recipient who was
24 enrolled in a public school of the district at the time that
25 the student first received a scholarship under this article,
26 the amount of Commonwealth school aid paid by the department
27 to the State school district shall be reduced by an amount
28 equal to the district's total aid received per student.

29 (2) For each scholarship recipient who was enrolled in a
30 public school of the district at the time that the student

1 first received a scholarship under this article, the amount
2 of local school aid paid to the district shall be reduced by
3 50% and the amount of such reduction shall be paid to the
4 Commonwealth and used to fund scholarship programs and
5 grants.

6 Section 2507-B. Educational Innovation Fund and Educational
7 Innovation Program.

8 (a) Establishment.--There is established in the department a
9 fund entitled the Educational Innovation Fund. The fund shall be
10 credited with the amount of any per-pupil Commonwealth or local
11 school aid reduction made pursuant to section 2506-B that is in
12 excess of the applicable scholarship awarded to a recipient who
13 was enrolled in a public school of the district at the time that
14 the student first received a scholarship. All interest or other
15 income or earnings derived from the investment or reinvestment
16 of moneys in the fund shall be credited to the fund.

17 (b) Program.--The department shall establish an Educational
18 Innovation Program. This program shall award competitive grants
19 to chronically failing schools to finance the adoption of
20 innovative educational practices with the objective of improving
21 student performance. The department shall have the exclusive
22 authority to determine all aspects of the competitive grants.
23 The grants shall be funded by moneys on deposit in the
24 Educational Innovation Fund. The department shall develop an
25 application process to select the chronically failing schools
26 which will receive an innovation grant. The application shall be
27 prepared and submitted by the superintendent of the district in
28 which the chronically failing school is located. The application
29 shall include at least the following information:

30 (1) A description of the innovative programs or

1 practices which would be implemented in the chronically
2 failing schools.

3 (2) A budget proposal for the use of any grant award.

4 (3) A list of program objectives and a description of
5 how the district will assess the program's implementation and
6 outcomes.

7 (4) A superintendent may submit a grant application that
8 does not include all chronically failing schools in the
9 district.

10 Section 2. This act shall take effect immediately.