
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 514 Session of
2023

INTRODUCED BY NEILSON, M. MACKENZIE, HILL-EVANS, SANCHEZ,
MADDEN, BURGOS, GIRAL, KINKEAD AND GREEN, MARCH 17, 2023

REFERRED TO COMMITTEE ON EDUCATION, MARCH 17, 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," providing for individual empowerment
6 scholarship accounts; and establishing the Pennsylvania
7 Empowerment Scholarship Accounts Program, the Department of
8 Education Empowerment Scholarship Fund and the State
9 Treasurer Empowerment Scholarship Fund.

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

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

15 ARTICLE XXVI-L

16 INDIVIDUAL EMPOWERMENT SCHOLARSHIP ACCOUNTS

17 Section 2601-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
20 context clearly indicates otherwise:

21 "Annual education plan." An initial individualized

1 evaluation and subsequent annual reviews that are developed for
2 a student who meets the requirements under section 2602-L(b) to
3 determine ongoing annual eligibility through the school year in
4 which the student reaches 22 years of age.

5 "Curriculum." A complete course of study approved by the
6 department for content areas or grade levels, including
7 supplemental materials required by the curriculum.

8 "Department." The Department of Education of the
9 Commonwealth.

10 "Eligible postsecondary institution." A community college as
11 defined in section 1901-A, a university under the jurisdiction
12 of the State System of Higher Education or an accredited private
13 postsecondary institution.

14 "Parent." A resident of this Commonwealth who is the parent
15 or legal guardian of a qualified student.

16 "Qualified school." A preschool for pupils with disabilities
17 or a nongovernmental primary or secondary school that is located
18 in this Commonwealth and that does not discriminate on the basis
19 of race, color or national origin.

20 "Qualified student." A person who meets the requirements
21 under section 2602-L(b).

22 "Treasurer." The State Treasurer of the Commonwealth.
23 Section 2602-L. Pennsylvania Empowerment Scholarship Accounts
24 Program.

25 (a) Establishment.--The Pennsylvania Empowerment Scholarship
26 Accounts Program is established in the department to provide
27 options for the education of students in this Commonwealth.

28 (b) Qualified students.--A resident of this Commonwealth is
29 qualified for an individual empowerment scholarship account if
30 the person meets any of the following requirements:

1 (1) Is identified as having a disability as defined
2 under section 29 U.S.C. § 705(20) (relating to definitions).

3 (2) Is identified as a student with a disability as
4 defined in section 1301-A.

5 (3) Is attending a school or school district that has
6 been assigned a score below 60 in its School Performance
7 Profile under section 603-B or who is currently eligible to
8 attend kindergarten and who resides within the attendance
9 boundary of a school that has been assigned a score below 60
10 in its School Performance Profile.

11 (4) Is a previous recipient of a scholarship issued
12 under this article, unless the qualified student's enrollment
13 agreement has been terminated under section 2603-L(e).

14 (5) Is a child of a parent who is a member of the armed
15 forces of the United States and who is on active duty or was
16 killed in the line of duty. A child who meets the
17 requirements of this paragraph is not subject to subsection
18 (c).

19 (c) Enrollment agreement.--To enroll a qualified student for
20 an individual empowerment scholarship account, the parent of the
21 qualified student must sign an enrollment agreement to do all of
22 the following:

23 (1) Use a portion of the individual empowerment
24 scholarship account money allocated annually to provide an
25 education for the qualified student in the subjects of
26 reading, grammar, mathematics, social studies and science,
27 unless the individual empowerment scholarship account is
28 allocated money according to a transfer schedule other than
29 the quarterly transfers under section 2603-L(a).

30 (2) Not enroll the qualified student in a school

1 district or charter school and release the school district or
2 charter school from all obligations.

3 (3) Not accept a scholarship from a school tuition
4 organization for the qualified student in the same year a
5 parent signs the agreement under this section.

6 (4) Not file an affidavit of intent to homeschool.

7 (5) Not use money deposited in the qualified student's
8 account for any of the following:

9 (i) Computer hardware or other technological
10 devices.

11 (ii) Transportation of the pupil.

12 (iii) Consumable educational supplies, including
13 paper, pens or markers.

14 (6) Use the money deposited in the individual
15 empowerment scholarship account only for the following
16 expenses of the qualified student:

17 (i) Tuition or fees at a qualified school.

18 (ii) Textbooks required by a qualified school.

19 (iii) If the qualified student meets the criteria
20 specified in subsection (b)(1) or (2) as determined by a
21 school district or by an independent third party
22 contracted for under section 2603-L(i), any of the
23 following additional expenses:

24 (A) Educational therapies from a licensed or
25 accredited practitioner or provider.

26 (B) Services of a licensed or accredited
27 paraprofessional or educational aide.

28 (C) Tuition for vocational and life skills
29 education approved by the department.

30 (D) Associated services that include educational

1 and psychological evaluations, assistive technology
2 rentals and braille translation services approved by
3 the department.

4 (iv) Tutoring or teaching services provided by an
5 individual or facility accredited by a national, regional
6 or State accrediting organization.

7 (v) Curricula.

8 (vi) Tuition or fees for a nonpublic online learning
9 program.

10 (vii) Fees for a nationally standardized norm-
11 referenced achievement test, an advanced placement
12 examination or an exam related to college or university
13 admission.

14 (viii) Contributions to a Coverdell education
15 savings account established under 26 U.S.C. § 530(b)(1)
16 (relating to Coverdell education savings accounts) for
17 the benefit of the qualified student, except that money
18 used for elementary or secondary education expenses must
19 be for expenses otherwise allowed under this section.

20 (ix) Tuition or fees at an eligible postsecondary
21 institution.

22 (x) Textbooks required by an eligible postsecondary
23 institution.

24 (xi) Fees for management of the individual
25 empowerment scholarship account.

26 (xii) Services provided by a public school,
27 including individual classes and extracurricular
28 programs.

29 (xiii) Insurance or surety bond payments.

30 (xiv) Uniforms purchased from or through a qualified

1 school.

2 (xv) Beginning January 1, 2024, if the qualified
3 student is in the second year prior to the final year of
4 a contract executed under this article, costs associated
5 with an annual education plan conducted by an independent
6 evaluation team. The department shall prescribe minimum
7 qualifications for independent evaluation teams in
8 accordance with this article and factors that teams must
9 use to determine whether the qualified student shall be
10 eligible to continue to receive money under this article
11 through the school year in which the qualified student
12 reaches 22 years of age. An independent evaluation team
13 that provides an annual education plan under this article
14 shall submit a written report that summarizes the results
15 of the evaluation to the parent of the qualified student
16 and to the department on or before July 31 each year. The
17 written report submitted by the independent evaluation
18 team shall be valid for one year. If the department
19 determines that the qualified student meets the
20 eligibility criteria prescribed in the annual education
21 plan, the qualified student is eligible to continue to
22 receive money under this article until the qualified
23 student reaches 22 years of age, subject to annual
24 review. A parent may appeal the department's decision. As
25 an addendum to a qualified student's final-year contract,
26 the department shall provide the following information in
27 writing to the parent of the qualified student:

28 (A) That the qualified student will not be
29 eligible to continue to receive money under this
30 article unless the results of an annual education

1 plan conducted under this article demonstrate that
2 the qualified student meets the eligibility criteria
3 prescribed in the annual education plan.

4 (B) That the parent is entitled to obtain a copy
5 of an annual education plan under this article to
6 determine whether the qualified student meets the
7 eligibility criteria prescribed in the annual
8 education plan.

9 (C) A list of independent evaluation teams that
10 meet the minimum qualifications prescribed by the
11 department under this subdivision.

12 (d) Transfer to individual empowerment scholarship
13 account.--Upon execution of the parent's agreement under
14 subsection (c), the department shall transfer from the money
15 that would otherwise be allocated to a qualified student's prior
16 school district, or, if the child is currently eligible to
17 attend kindergarten, the money that the department determines
18 would otherwise be allocated to a qualified student's expected
19 school district of attendance, to the treasurer for deposit into
20 an individual empowerment scholarship account an amount that is
21 equivalent to 90% of the sum of the amount prescribed in section
22 2502.53, divided by average daily membership, for the qualified
23 student if the qualified student were attending a charter
24 school. The department may retain up to 5% of the sum of the
25 base support level and additional assistance prescribed in
26 section 2502.53, divided by average daily membership, for each
27 student with an individual empowerment scholarship account for
28 deposit into the Department of Education Empowerment Scholarship
29 Fund established under subsection (e), out of which the
30 department shall transfer 1% of the sum of the amount prescribed

1 in section 2502.53, divided by average daily membership, for
2 each student with an individual empowerment scholarship account
3 to the treasurer for deposit into the State Treasurer
4 Empowerment Scholarship Fund established in subsection (f).

5 (e) Department of Education Empowerment Scholarship Fund.--

6 The Department of Education Empowerment Scholarship Fund is

7 established and shall consist of money retained by the

8 department under subsection (d). The department shall administer

9 the fund. Money in the fund is subject to legislative

10 appropriation and shall be used for the department's costs in

11 administering individual empowerment scholarship accounts under

12 this article. If the number of individual empowerment

13 scholarship accounts significantly increases after fiscal year

14 2023-2024, the department may request an increase in the amount

15 appropriated to the fund in any subsequent fiscal year in the

16 budget estimate submitted.

17 (f) State Treasurer Empowerment Scholarship Fund.--The State

18 Treasurer Empowerment Scholarship Fund is established and shall

19 consist of money transferred by the department to the treasurer

20 under subsection (d). The treasurer shall administer the fund.

21 Money in the fund shall be used for the treasurer's costs in

22 administering the individual empowerment scholarship accounts

23 under this article. If the number of individual empowerment

24 scholarship accounts significantly increases after fiscal year

25 2023-2024, the treasurer may request an increase in the amount

26 appropriated to the fund in a subsequent fiscal year in the

27 budget estimate submitted. Money in the fund is subject to

28 legislative appropriation.

29 (g) Account renewal.--A parent must renew the qualified

30 student's individual empowerment scholarship account on an

1 annual basis. Notwithstanding any changes to the student's
2 individualized education program or plan under 29 U.S.C. § 794
3 (relating to nondiscrimination under Federal grants and
4 programs), a student who has previously qualified for an
5 individual empowerment scholarship account shall remain eligible
6 to apply for renewal until the student finishes high school.

7 (h) School attendance.--A signed enrollment agreement under
8 this section constitutes school attendance required under
9 Article XIII.

10 (i) Prohibition.--A qualified school or a provider of
11 services purchased under subsection (c) (6) may not share with,
12 refund or rebate to a parent or the qualified student any
13 individual empowerment scholarship account money.

14 (j) Return of funds.--Upon the qualified student's
15 graduation from a postsecondary institution or after a period of
16 four consecutive years after high school graduation in which the
17 student is not enrolled in an eligible postsecondary
18 institution, the qualified student's individual empowerment
19 scholarship account shall be closed and any remaining money
20 shall be returned to the Commonwealth.

21 (k) Tax implications.--Money received under this article
22 does not constitute taxable income to the parent of the
23 qualified student.

24 Section 2603-L. Administration of individual empowerment
25 scholarship accounts.

26 (a) Account deposits.--The department shall make quarterly
27 transfers of the amount calculated under section 2602-L(d) to
28 the treasurer for deposit into the individual empowerment
29 scholarship account of each qualified student. The department
30 may make transfers according to another transfer schedule if the

1 department determines a transfer schedule other than quarterly
2 transfers is necessary for the operation of the individual
3 empowerment scholarship account.

4 (b) Scholarship award.--The department shall accept
5 applications between July 1 and June 30 of each year. The
6 department shall enroll and issue an award letter to eligible
7 applicants within 45 days after receipt of a completed
8 application and all required documentation.

9 (c) Private management.--The treasurer may contract with
10 private financial management firms to manage individual
11 empowerment scholarship accounts.

12 (d) Audits.--The department shall conduct or contract for
13 annual audits of individual empowerment scholarship accounts to
14 ensure compliance with section 2602-L(c)(6). The department
15 shall also conduct or contract for random audits of individual
16 empowerment scholarship accounts as needed.

17 (e) Account suspension.--The department may suspend an
18 individual empowerment scholarship account if the parent or
19 qualified student fails to comply with the terms of the
20 enrollment agreement or applicable laws, rules or orders. The
21 department shall notify the treasurer to suspend the individual
22 empowerment scholarship account and shall notify the parent and
23 qualified student in writing that the account has been suspended
24 and that no further transactions will be allowed or
25 disbursements made. The notification shall specify the reason
26 for the suspension and state that the parent or qualified
27 student has 10 days, not including weekends or Federal or State
28 holidays, to respond and take corrective action. If the parent
29 or qualified student fails to contact the department, furnish
30 information or make a report that may be required for

1 reinstatement within the 10-day period, the department may
2 terminate the enrollment agreement. A parent may appeal the
3 department's decision.

4 (f) Referral to Attorney General.--The department may refer
5 cases of substantial misuse of money to the Attorney General for
6 the purpose of collection or for the purpose of a criminal
7 investigation if the department obtains evidence of fraudulent
8 use of an individual empowerment scholarship account.

9 (g) Budget submission.--On or before May 30 of each year,
10 the department shall furnish to the Legislative Budget and
11 Finance Committee an estimate of the amount required to fund
12 individual empowerment scholarship accounts for the following
13 fiscal year. The department shall include in the budget request
14 for the following fiscal year the amount estimated under section
15 2602-L(d), for each qualified student.

16 (h) Rules and policies.--The department may adopt rules and
17 policies necessary for the administration of individual
18 empowerment scholarship accounts including:

19 (1) Conducting or contracting for audits of the use of
20 account money.

21 (2) Establishing or contracting for the establishment of
22 an online anonymous fraud reporting service.

23 (3) Establishing an anonymous telephone hotline for
24 fraud reporting.

25 (4) Requiring a surety bond or insurance for individual
26 empowerment scholarship account holders.

27 (i) Contract for third party assessment.--The department
28 shall contract with an independent third party for the purposes
29 of determining if a qualified student is eligible to receive
30 educational therapies or services under section 2602-L(c)(6)

1 (iii).

2 Section 2604-L. State control over nonpublic schools.

3 (a) General rule.--This article does not permit a State
4 agency to exercise control or supervision over a nonpublic
5 school or home school. A qualified school that accepts a payment
6 from a parent from an individual empowerment scholarship account
7 under this article is not an agent of the Federal or State
8 Government.

9 (b) Prohibition.--A qualified school may not be required to
10 alter the qualified school's creed, practices, admissions policy
11 or curriculum in order to accept students whose parents pay
12 tuition or fees from an individual empowerment scholarship
13 account in order to participate as a qualified school.

14 (c) Applicability.--In any legal proceeding challenging the
15 application of this article to a qualified school, the
16 Commonwealth bears the burden of establishing that the law is
17 necessary and does not impose any undue burden on qualified
18 schools.

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