

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1216 Session of
2020

INTRODUCED BY LANGERHOLC, STEFANO, MENSCH, PHILLIPS-HILL,
J. WARD, AUMENT, PITTMAN, REGAN, BROWNE, TARTAGLIONE,
KILLION, SABATINA, VOGEL, SCAVELLO, BOSCOLA, COLLETT, BLAKE,
SANTARSIERO, BAKER, IOVINO, MUTH, BREWSTER, HUGHES AND
MASTRIANO, JUNE 19, 2020

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 29, 2020

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 PRELIMINARY PROVISIONS, FURTHER <--
6 PROVIDING FOR KEYSTONE EXAMS AND GRADUATION REQUIREMENTS; in
7 certification of teachers, FURTHER PROVIDING FOR <--
8 INSTRUCTIONAL CERTIFICATE GRADE SPANS AND AGE LEVELS AND
9 DUTIES OF DEPARTMENT AND providing for special provisions
10 applicable to 2020-2021 school year; IN PUPILS AND <--
11 ATTENDANCE, PROVIDING FOR NONPUBLIC SCHOOL TRANSPORTATION FOR
12 2020-2021 SCHOOL YEAR; AND, IN SCHOOL HEALTH SERVICES,
13 FURTHER PROVIDING FOR CONFIDENTIALITY, TRANSFERENCE AND
14 REMOVAL OF HEALTH RECORDS.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. The act of March 10, 1949 (P.L.30, No.14), known <--~~
18 ~~as the Public School Code of 1949, is amended by adding a~~
19 ~~section to read:~~

20 ~~SECTION 1. SECTION 1202.1(A) OF THE ACT OF MARCH 10, 1949 <--~~
21 ~~(P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS~~

1 ~~AMENDED BY ADDING A PARAGRAPH TO READ:~~

2 SECTION 1. SECTION 121(B) (1) OF THE ACT OF MARCH 10, 1949 <--
3 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS
4 AMENDED TO READ:

5 SECTION 121. KEYSTONE EXAMS AND GRADUATION REQUIREMENTS.--*

6 * *

7 (B) THE FOLLOWING SHALL APPLY:

8 (1) NOTWITHSTANDING SECTION 2604-B(B) (2) (V), 22 PA. CODE §
9 4.24 (RELATING TO HIGH SCHOOL GRADUATION REQUIREMENTS), 4.51
10 (RELATING TO STATE ASSESSMENT SYSTEM) OR 4.51C (RELATING TO
11 PROJECT-BASED ASSESSMENT) OR ANY STATUTE OR REGULATION TO THE
12 CONTRARY, THE USE OF THE KEYSTONE EXAMS AS A STATE OR LOCAL
13 GRADUATION REQUIREMENT OR AS A BENCHMARK FOR THE NEED FOR
14 PARTICIPATION IN A PROJECT-BASED ASSESSMENT SHALL BE DELAYED
15 UNTIL THE [2021-2022] 2022-2023 SCHOOL YEAR.

16 * * *

17 SECTION 2. SECTION 1202.1(A) OF THE ACT IS AMENDED BY ADDING
18 A PARAGRAPH TO READ:

19 SECTION 1202.1. INSTRUCTIONAL CERTIFICATE GRADE SPANS AND
20 AGE LEVELS AND DUTIES OF DEPARTMENT.-- (A) THE FOLLOWING SHALL
21 APPLY TO SPECIAL EDUCATION CERTIFICATES:

22 * * *

23 (1.1) NOTWITHSTANDING PARAGRAPH (1), A TEACHER PREPARATION
24 PROGRAM MAY PERMIT AN INDIVIDUAL ENROLLED AT AN INSTITUTION OF
25 HIGHER EDUCATION OR IN AN APPROVED ALTERNATIVE PREPARATION
26 PROGRAM PRIOR TO DECEMBER 31 2021, AND WHO REMAINS CONTINUOUSLY
27 ENROLLED TO COMPLETE THE PROGRAM FOR THE GRADE LEVEL LIMITATIONS
28 PROVIDED UNDER 22 PA. CODE § 49.85(A) AND (B). THE DEPARTMENT
29 MAY ISSUE THE APPROPRIATE SPECIAL EDUCATION-PK-8 OR SPECIAL
30 EDUCATION-7-12 CERTIFICATES TO AN APPLICANT WHO COMPLETES THE

1 PROGRAM AND MEETS ALL OTHER CERTIFICATION REQUIREMENTS.

2 * * *

3 SECTION 2 3. THE ACT IS AMENDED BY ADDING ~~A SECTION~~ SECTIONS <--
4 TO READ:

5 Section 1207.4. Special Provisions Applicable to 2020-2021
6 School Year.--(a) Beginning on the effective date of this
7 subsection and notwithstanding any other provision of law to the
8 contrary, the Secretary of Education may do any or all of the
9 following:

10 (1) Waive the requirement to satisfactorily complete the
11 assessment of basic skills required under section 1207.3 and 22
12 Pa. Code § 49.18(c) (relating to assessment) during the 2020-
13 2021 school year. This paragraph shall expire June 30, 2021.

14 (2) Issue a temporary provisional certificate to an educator
15 who has completed a preparation program and meets all
16 requirements for certification except the satisfactory
17 completion of the assessments required pursuant to 22 Pa. Code §
18 49.18(c) because the assessments were canceled or could not be
19 scheduled. A temporary provisional certificate issued under this
20 paragraph shall expire after one year of issuance and may be
21 converted to a Level I Pennsylvania certificate upon submission
22 of evidence of satisfactory completion of the required
23 assessments to the Department of Education. This paragraph shall
24 expire on June 30, 2021.

25 (3) Issue an exceptional case permit for a professional
26 employee at the request of a school entity that employs the
27 professional employee who completed the final year of Level I
28 Pennsylvania certificate validity in the 2019-2020 school year
29 and who was unable to complete the assessment requirements for
30 conversion to a Level II Pennsylvania certificate under 22 Pa.

1 Code § 49.18(a)(2)(iii) because the assessments were canceled or
2 could not be scheduled. The exceptional case permit shall expire
3 one year from the date of issuance. This paragraph shall expire
4 June 30, 2021.

5 (4) Issue a temporary certificate to an individual who is
6 unable to complete the appropriate subject matter test for areas
7 other than health and physical education, cooperative education,
8 all special education areas and additional areas as may be
9 determined by the Department of Education under 22 Pa. Code §
10 49.18(e) when the Department of Education determines that the
11 relevant assessment has been canceled or could not be scheduled.
12 An individual who provides evidence as required by the
13 Department of Education indicating that the individual attempted
14 to access testing and was denied registration may be eligible
15 for issuance of a temporary certificate under this paragraph.
16 The temporary certificate shall expire one year from the date of
17 issuance and may be converted to a full instructional
18 certificate by providing proof of satisfactory achievement on
19 the required test to the Department of Education. This paragraph
20 shall expire June 30, 2021.

21 (5) THE FOLLOWING PROVISIONS RELATING TO TESTING SHALL
22 APPLY:

<--

23 (I) THE SECRETARY OF EDUCATION MAY WAIVE THE NIMS ASSESSMENT
24 AND THE NOCTI EXAM ON A SCHOOL-WIDE BASIS OR FOR A SPECIFIC
25 CAREER AND TECHNICAL EDUCATION PROGRAM PROVIDED BY A SCHOOL
26 ENTITY BASED ON THE RECOMMENDATIONS OF DIRECTORS OF CAREER AND
27 TECHNICAL EDUCATION PROGRAMS UNDER 22 PA. CODE CH. 339 (RELATING
28 TO VOCATIONAL EDUCATION). THE RECOMMENDATIONS SHALL ACCOUNT FOR
29 THE LENGTH OF TIME A CAREER AND TECHNICAL CENTER WAS OPEN FOR
30 IN-PERSON STUDENT INSTRUCTION AND THE SUBJECT MATTER OF THE

1 PROGRAM AFFECTED.

2 (II) THE SECRETARY OF EDUCATION SHALL WAIVE THE REQUIREMENT
3 TO INCLUDE PERFORMANCE DATA OTHERWISE REQUIRED UNDER SECTION
4 1123(B)(1)(II) IN A PROFESSIONAL EMPLOYEE'S PERFORMANCE RATING
5 UNDER SECTION 1123.

6 (b) Beginning on the effective date of this subsection and
7 notwithstanding any other provision of law to the contrary, the
8 deadline by which any paraprofessional employed by a school
9 entity as of March 13, 2020, must satisfy staff development
10 activity hour requirements under 22 Pa. Code § 14.105 (relating
11 to personnel) shall be extended until June 30, 2021. This
12 subsection shall expire one year from the effective date of this
13 subsection.

14 (C) THE FOLLOWING PROVISIONS RELATING TO TESTING OF STUDENTS <--
15 SHALL APPLY:

16 (1) NOTWITHSTANDING SECTION 2604-B(B)(2)(V) OR 22 PA. CODE §
17 4.24 (RELATING TO HIGH SCHOOL GRADUATION REQUIREMENTS), 4.51
18 (RELATING TO STATE ASSESSMENT SYSTEM) OR 4.51C (RELATING TO
19 PROJECT-BASED ASSESSMENT), OR ANY STATUTE OR REGULATION TO THE
20 CONTRARY, THE USE OF THE KEYSTONE EXAMS AS A STATE OR LOCAL
21 GRADUATION REQUIREMENT OR AS A BENCHMARK FOR THE NEED FOR
22 PARTICIPATION IN A PROJECT-BASED ASSESSMENT SHALL BE DELAYED
23 UNTIL THE 2022-2023 SCHOOL YEAR.

24 (2) THE SECRETARY OF EDUCATION SHALL APPLY TO THE UNITED
25 STATES DEPARTMENT OF EDUCATION FOR A WAIVER OF THE TESTING AND
26 ACCOUNTABILITY REQUIREMENTS OF THE ELEMENTARY AND SECONDARY
27 EDUCATION ACT OF 1965 (PUBLIC LAW 89-10, 20 U.S.C. § 6301 ET
28 SEQ.), AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT (PUBLIC LAW
29 114-95, 129 STAT. 1802), IF THE UNITED STATES DEPARTMENT OF
30 EDUCATION PROVIDES AN OPPORTUNITY TO APPLY FOR SUCH A WAIVER FOR

1 THE 2020-2021 SCHOOL YEAR.

2 (3) FOR THE 2019-2020 AND 2020-2021 SCHOOL YEARS SCHOOL YEAR <--
3 AND ANY SUBSEQUENT SCHOOL YEAR IN WHICH THE FEDERAL GOVERNMENT
4 HAS WAIVED THE TESTING AND ACCOUNTABILITY REQUIREMENTS OF THE
5 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED BY
6 THE EVERY STUDENT SUCCEEDS ACT, ANY STUDENT WHO COMPLETED A
7 COURSE IN AN ACADEMIC CONTENT AREA ASSOCIATED WITH A KEYSTONE
8 EXAM SHALL NOT BE REQUIRED TO TAKE THE KEYSTONE EXAM RELATED TO
9 THAT COURSE AND SHALL BE DEEMED PROFICIENT FOR PURPOSES OF
10 SECTIONS 121 AND 2604-B(B) (2) (V) AND 22 PA. CODE § 4.24,
11 PROVIDED THE STUDENT DEMONSTRATES SUCCESSFUL COMPLETION OF
12 LOCALLY ESTABLISHED, GRADE-BASED REQUIREMENTS FOR THE ACADEMIC
13 CONTENT AREAS ASSOCIATED WITH EACH KEYSTONE EXAM.

14 (4) NOTWITHSTANDING THE PROVISIONS OF 22 PA. CODE § 4.4(D)
15 (3) (RELATING TO GENERAL POLICIES), A PARENT OR GUARDIAN OF A
16 STUDENT ENROLLED IN THE 2019-2020 OR 2020-2021 SCHOOL YEAR IN A
17 GRADE OR COURSE IN AN ACADEMIC CONTENT AREA FOR WHICH AN
18 ASSESSMENT IS TYPICALLY REQUIRED MAY ELECT TO OPT-OUT OF THE
19 ASSESSMENT. THE FOLLOWING SHALL APPLY:

20 (I) A PARENT OR GUARDIAN WHO ELECTS TO OPT-OUT OF AN
21 ASSESSMENT UNDER THIS PARAGRAPH SHALL NOT BE REQUIRED TO ADHERE
22 TO THE PROCEDURES SET FORTH UNDER 22 PA. CODE § 4.4(D) (4).

23 (II) WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF THIS
24 PARAGRAPH, A SCHOOL ENTITY SHALL NOTIFY ITS STUDENTS AND THEIR
25 PARENTS OR GUARDIANS THAT THE PARENTS OR GUARDIANS MAY OPT-OUT
26 OF AN ASSESSMENT UNDER THIS PARAGRAPH.

27 (III) A PARENT OR GUARDIAN OF A STUDENT WHO ELECTS TO OPT-
28 OUT OF AN ASSESSMENT UNDER THIS PARAGRAPH SHALL NOTIFY A SCHOOL
29 ENTITY IN WRITING OF THE DECISION TO OPT-OUT OF THE ASSESSMENT.

30 (IV) A SCHOOL ENTITY MAY NOT IMPOSE NEGATIVE CONSEQUENCES ON

1 A STUDENT, INCLUDING, BUT NOT LIMITED TO, THE DENIAL OF A HIGH
2 SCHOOL DIPLOMA, BASED SOLELY ON THE DECISION OF THE STUDENT'S
3 PARENT OR GUARDIAN TO OPT-OUT OF AN ASSESSMENT UNDER THIS
4 PARAGRAPH.

5 (V) A SCHOOL ENTITY OR AN EMPLOYE OF THE SCHOOL ENTITY MAY
6 NOT ENCOURAGE A PARENT OR GUARDIAN OF A STUDENT TO OPT-OUT OF AN
7 ASSESSMENT UNDER THIS PARAGRAPH OR PENALIZE A STUDENT OR THE
8 STUDENT'S PARENT OR GUARDIAN FOR OPTING-OUT OF AN ASSESSMENT
9 UNDER THIS PARAGRAPH. NOTHING IN THIS SUBPARAGRAPH SHALL BE
10 CONSTRUED TO PROHIBIT A SCHOOL ENTITY OR AN EMPLOYE OF THE
11 SCHOOL ENTITY FROM COMMUNICATING WITH STUDENTS OR THEIR PARENTS
12 OR GUARDIANS REGARDING THE OPTION TO OPT-OUT OF AN ASSESSMENT
13 UNDER THIS PARAGRAPH.

14 (VI) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM
15 "ASSESSMENT" SHALL INCLUDE THE PENNSYLVANIA SYSTEM OF SCHOOL
16 ASSESSMENT TEST, A KEYSTONE EXAM OR A TEST ESTABLISHED BY
17 STATUTE, REGULATION OR THE STATE BOARD OF EDUCATION IN
18 ACCORDANCE WITH SECTION 2603-B OR 2604-B, 22 PA. CODE § 4.51 OR
19 THE EVERY STUDENT SUCCEEDS ACT (PUBLIC LAW 114-95, 129 STAT.
20 1802).

21 SECTION 1361.1. NONPUBLIC SCHOOL TRANSPORTATION FOR 2020-
22 2021 SCHOOL YEAR.--(A) ALTHOUGH THE CURRENT PROVISIONS OF
23 SECTION 1361 REQUIRE SCHOOL DISTRICTS TO PROVIDE FOR THE
24 TRANSPORTATION OF STUDENTS ENROLLED IN NONPUBLIC SCHOOLS NOT
25 OPERATED FOR PROFIT, THE PURPOSE OF THIS SECTION IS TO CLARIFY
26 THE CURRENT PROVISIONS OF THIS ARTICLE RELATING TO THE
27 TRANSPORTATION OF THE STUDENTS DURING THE 2020-2021 SCHOOL YEAR
28 DURING THE COVID-19 DISASTER EMERGENCY.

29 (B) AS IT RELATES TO THE PROVISION OF TRANSPORTATION FOR
30 NONPUBLIC SCHOOLS FOR THE 2020-2021 SCHOOL YEAR, IF

1 TRANSPORTATION WAS PROVIDED DURING THE 2019-2020 SCHOOL YEAR FOR
2 PUPILS OF NONPUBLIC SCHOOLS UNDER SECTION 1361(1), THE BOARD OF
3 SCHOOL DIRECTORS SHALL PROVIDE PUPILS OF NONPUBLIC SCHOOL
4 TRANSPORTATION ON THE DATES AND PERIODS THAT THE NONPUBLIC
5 SCHOOL IS IN SESSION ACCORDING TO THE SCHOOL CALENDAR OFFICIALLY
6 ADOPTED BY THE NONPUBLIC SCHOOL WHETHER OR NOT TRANSPORTATION IS
7 PROVIDED ON THOSE DATES AND PERIODS TO STUDENTS ATTENDING
8 SCHOOLS OF THE DISTRICT.

9 (C) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS
11 THE CONTEXT CLEARLY INDICATES OTHERWISE:

12 "COVID-19 DISASTER EMERGENCY." THE PROCLAMATION OF DISASTER
13 EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT
14 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF THE
15 PROCLAMATION OF DISASTER EMERGENCY.

16 SECTION 4. SECTION 1409 OF THE ACT IS AMENDED BY ADDING A
17 SUBSECTION TO READ:

18 SECTION 1409. CONFIDENTIALITY, TRANSFERENCE AND REMOVAL OF
19 HEALTH RECORDS.--* * *

20 (D) THE FOLLOWING APPLY:

21 (1) THE DEPARTMENT OF HEALTH OR THE LOCAL BOARD OR
22 DEPARTMENT OF HEALTH SHALL REPORT TO A SCHOOL ENTITY ANY
23 POSITIVE OR PRESUMPTIVE CASE OF COVID-19 THAT OCCURS IN A
24 STUDENT OR AN EMPLOYEE OF A SCHOOL ENTITY, IN A PROVIDER OF
25 SERVICES OR CONTRACTOR WHO WORKS AT THE SCHOOL ENTITY OR IN AN
26 INDIVIDUAL WHO VOLUNTEERS AT THE SCHOOL ENTITY, INCLUDING ANY
27 INDIVIDUAL WHO COACHES OR ADVISES AN EXTRACURRICULAR ACTIVITY
28 SPONSORED BY THE SCHOOL ENTITY. WITHIN TWENTY-FOUR (24) HOURS OF
29 RECEIPT OF THE INFORMATION OF A POSITIVE CASE OF COVID-19 IN AN
30 EMPLOYEE, A STUDENT, A CONTRACTOR OR A VOLUNTEER OF THE SCHOOL

1 ENTITY UNDER THIS PARAGRAPH, THE SCHOOL ENTITY SHALL NOTIFY
2 EMPLOYEES, CONTRACTORS, VOLUNTEERS AND THE PARENTS OF THE
3 STUDENTS WHO WORK, VOLUNTEER OR RECEIVE INSTRUCTION IN THE SAME
4 SCHOOL BUILDING OR ON THE SAME SCHOOL PROPERTY AS THE COVID-19-
5 POSITIVE EMPLOYEE, CONTRACTOR, VOLUNTEER OR STUDENT OF THE
6 EXISTENCE OF THE COVID-19-POSITIVE EMPLOYEE, CONTRACTOR,
7 VOLUNTEER OR STUDENT. THE SCHOOL ENTITY SHALL PROVIDE
8 EDUCATIONAL SUPPORT TO STUDENTS WHO ARE NOT PERMITTED TO RECEIVE
9 INSTRUCTION AT THE SCHOOL ENTITY DUE TO A POSITIVE OR
10 PRESUMPTIVE CASE OF COVID-19 WITHIN THE SCHOOL ENTITY.

11 (2) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND
12 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS PARAGRAPH:

13 "COVID-19" MEANS THE NOVEL CORONAVIRUS AS IDENTIFIED IN THE
14 PROCLAMATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON
15 MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), AND
16 ANY RENEWAL OF THE STATE OF DISASTER EMERGENCY.

17 "LOCAL BOARD OR DEPARTMENT OF HEALTH" HAS THE MEANING GIVEN
18 IN SECTION 2(F) OF THE ACT OF APRIL 23, 1956 (1955 P.L.1510,
19 NO.500), KNOWN AS THE "DISEASE PREVENTION AND CONTROL LAW OF
20 1955."

21 "SCHOOL ENTITY" MEANS ANY SCHOOL DISTRICT, INTERMEDIATE UNIT,
22 CAREER AND TECHNICAL CENTER, CHARTER SCHOOL, REGIONAL CHARTER
23 SCHOOL, CYBER CHARTER SCHOOL, PRIVATE OR NONPUBLIC SCHOOL.

24 Section ~~2~~ 3 5. This act shall take effect ~~immediately~~. AS <--
25 FOLLOWS:

26 (1) THE AMENDMENT OF SECTION 1202.1(A) SHALL TAKE EFFECT
27 IN 60 DAYS.

28 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
29 IMMEDIATELY.