



2015-16 PSBA Education Law Summary





The Pennsylvania School Boards Association is a nonprofit statewide association representing the 4,500 elected officials who govern the commonwealth's public school districts. PSBA is a membership-driven organization that is pledged to the highest ideals of local lay leadership for public schools. We work to support reforms for the betterment of public education and to promote the achievements of public schools, students and local school boards.

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Fall 2016

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(This document is provided for educational purposes only and contains information to facilitate a general understanding of the laws that were enacted during the 2015-16 legislative session affecting school districts that were reported by PSBA. It is not intended to be an exhaustive explanation of the new laws. Please consult your solicitor for more specifics on the implementation of these laws as they affect your school district.)

Introduction

The 2015-16 session of the General Assembly officially convened on Tuesday, Jan. 6, 2015, when the 25 senators and 203 representatives who were elected in November 2014 were sworn into office. Of that total, there were 33 new legislators, seven new senators and 26 new members of the House of Representatives.

Tom Wolf was sworn in as the 47th governor of the Commonwealth of Pennsylvania on Tuesday, Jan. 20, 2015. Sen. Mike Stack became the state’s lieutenant governor in a ceremony held a few hours prior that in the Senate chamber. His resignation as a state senator became effective simultaneously with taking the oath of office to serve in his new role. Gov. Wolf signaled his interest in education, saying that “nothing is more essential than working together to make sure that every child in Pennsylvania has access to a great education, and that all teachers have the resources they need to deliver a great education. From early childhood to college and apprenticeships and training, we must strive to provide our kids an education that is both affordable and second to none. Our schools must be our highest priority.”



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This report is a summary of the legislation affecting public education that was passed by the General Assembly, became law, and reported by PSBA for its members during the 2015-16 session.

Session highlights:

- During the course of the two-year session, there were 3,750 bills introduced. Of those, 2,386 bills were introduced in the House of Representatives, and 1,364 came from the Senate.
- PSBA tracked the activity of 543 bills that included 345 House bills and 198 from the Senate.
- In addition, PSBA tracked the movement of 25 resolutions in the General Assembly.

For more information about any issue in this report, contact PSBA and PSBA's Office of Government Affairs staff at (800) 932-0588, ext. 3337.

For information about the members of the General Assembly, session information, texts of acts and proposed legislation, votes and more, go to the Pennsylvania General Assembly's website at www.legis.state.pa.us.

State Funding for Education

Budget Impasse

The legislative session was marked by disagreements between the governor and the General Assembly over spending and revenue, leading to a nine-month impasse in finalizing the 2015-16 state budget that wasn't resolved until March 2016.

The governor's first budget address proposed some key increases for the 2015-16 school year, with Wolf calling the 2015-16 budget plan the first phase of a four-year goal to increase overall pre-K-12 investment by \$2 billion in order to meet the state's education commitments. Another key component of the governor's education investment strategy was the enactment of a real basic education funding formula, which was in the process of being developed by a bipartisan Basic Education Funding Commission established by the General Assembly.

With no agreement on the size of the budget or how to pay for it, the impasse continued, although some emergency funding became available in early 2016. Gov. Wolf delivered his second state budget address to the General Assembly, even as the 2015-16 budget was not finalized. School districts kept their doors open by drawing on reserves, making cuts and holding off on purchases and payments. The supplemental appropriations bill for the 2015-16 budget was enacted in March 2016, finally ending the impasse. Passage of an accompanying Fiscal Code bill followed in late April and legislation to make a new school funding formula permanent was enacted in early June.

As the sting of the lengthy budget impasse remained fresh, the 2016-17 state budget was enacted by early July, just a few days past the June 30 deadline set by the constitution.

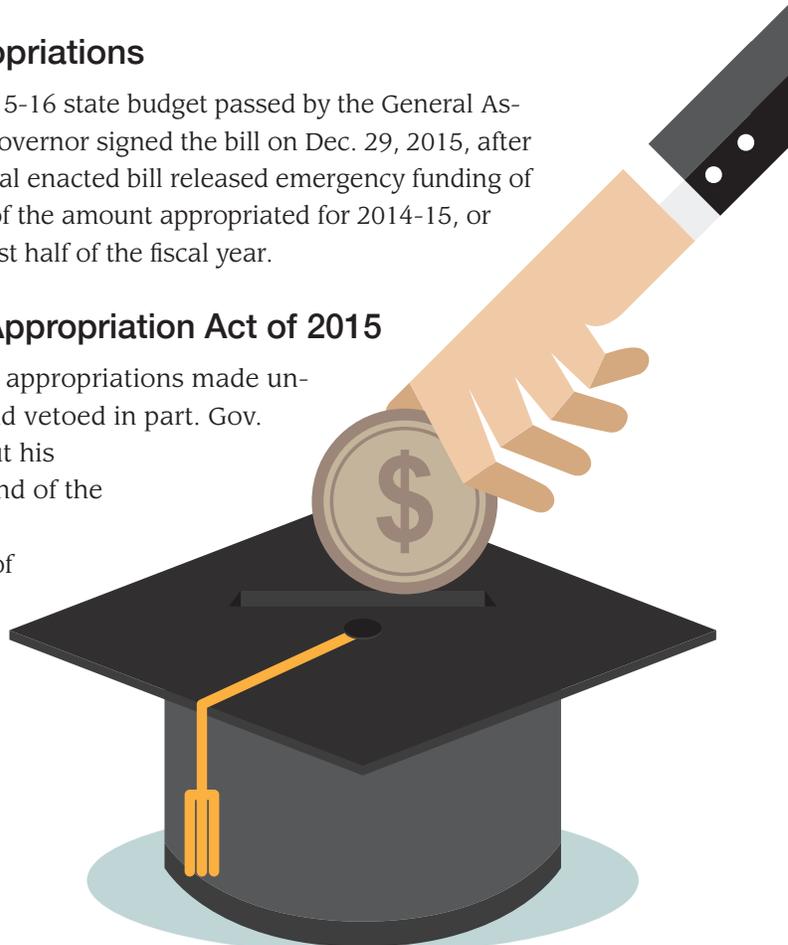
Act 10A of 2015: Partial State Budget Appropriations

House Bill 1460, now Act 10A of 2015, is a \$30.3 billion 2015-16 state budget passed by the General Assembly and presented to Gov. Wolf on Dec. 24, 2015. The governor signed the bill on Dec. 29, 2015, after using a line-item veto on numerous appropriations. The final enacted bill released emergency funding of \$23.4 billion. The funding amount is based on six months of the amount appropriated for 2014-15, or just over \$2.5 billion to fund schools immediately for the first half of the fiscal year.

Act 1A of 2016: Supplement to the General Appropriation Act of 2015

House Bill 1801, now Act 1A of 2016, makes additions to appropriations made under Act 10A of 2015, which was signed last December and vetoed in part. Gov. Tom Wolf allowed House Bill 1801 to become law without his signature in order for schools to stay open through the end of the 2015-16 school year.

The supplemental appropriations contained in Act 1A of 2016, and the amounts under Act 10A of 2015, result in total General Fund expenditures of approximately \$30 billion. Basic education received a \$200 million increase, with \$150 million for the basic subsidy and \$50 million targeted to the Ready to Learn Block Grant. There are no funds specifically allocated to provide school districts reimbursement for the interest paid on loans taken out during the impasse.



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The bill includes these other funding increases for education:

- Special Education – \$30 million
- Pre-K Counts – \$25 million
- Head Start Supplemental Assistance – \$5 million
- School Employees' Retirement – \$5.6 million
- PA Assessment – \$9 million
- Safe School Initiative – \$5 million
- Pupil Transportation – \$2.4 million
- Mobile Science & Math Education Program – \$250,000

Act 25 of 2016: Fiscal Code Provisions/Budget

House Bill 1589, the Fiscal Code bill, became Act 25 of 2016 without the governor's signature. It implements the Basic Education Funding Commission's recommended funding formula for 2015-16 and provided for reimbursement to districts for school construction projects under the PlanCon process. Regarding PlanCon funding, Act 25 requires the Commonwealth Financing Authority (CFA) to establish a program to issue up to \$2.5 billion in appropriation-backed bonds for the purpose of providing reimbursements to school districts for approved construction costs. The enactment of the PlanCon provisions is estimated to result in finance costs of approximately \$1.5 billion over 20 years for the bonds authorized assuming an interest rate of 5% on the bonds.

Act 35 of 2016: Basic Education Funding Formula

House Bill 1552, now Act 35 of 2016, makes permanent the student-weighted basic education funding distribution formula, as developed by the Basic Education Funding Commission. The formula is established in the Public School Code for use in the 2016-17 fiscal year and each year thereafter. Any increase in basic education funding above what was appropriated for the 2014-15 fiscal year is distributed through this formula. All other basic education funding is distributed to school districts in the same manner as funding was distributed in the 2014-15 fiscal year. This is the same formula that was enacted in the Fiscal Code for the 2015-16 fiscal year under Act 25. In addition to enacting the funding formula, Act 35 contains emergency funding for two financially distressed school districts in the commonwealth. Wilksburg in Allegheny County will receive \$3 million and Chester-Upland in Delaware County will receive \$12 million, with each amount being applied to the districts' base funding moving forward.

Act 35 also gives the Secretary of Education the authority to enter into a regional compact and interstate reciprocity agreement for the provision of postsecondary distance education. In states, territories, and districts that are party to such an agreement, institutions that choose to participate provide distance education to students from other states, territories, and districts that are also a party to the agreement.

Act 16A of 2016: State Budget Appropriations

Senate Bill 1073, now Act 16A of 2016, is the \$31.5 billion spending plan, enacted on July 11 without Gov. Wolf's signature. An accompanying revenue plan under House Bill 1198, which became Act 84 of 2016, provided the necessary revenue to support the spending. Act 16A contains a \$200 million increase for the basic education subsidy to be distributed under the new funding formula for a total of \$6.15 billion for basic education funding. In addition, the 2016-17 budget includes these increases for education programs:

State Funding for Education

- \$20 million increase for special education (\$1.096 billion)
- \$345 million increase for pension obligations (\$2.064 billion)
- \$30 million in increases for early childhood programs: Pre-K Counts (\$147 million) and Head Start Supplemental Assistance (\$49 million)
- \$5.66 million increase for Community Colleges (\$232 million)
- Level-funded programs include:
 - Ready-to-Learn Block Grants (\$250 million)
 - Career and Technical Education (\$62 million) and Career and Technical Education Equipment Grants (\$3 million)
 - Pupil Transportation (\$549 million) and Nonpublic and Charter Pupil Transportation (\$80 million)
 - Safe Schools Initiative (\$8 million)

PlanCon, the school construction reimbursement program, was zero-funded for the second year. The lack of funding for PlanCon in 2015-16 was an agreed-to action necessitated by the Fiscal Code language (Act 25 of 2016) that authorizes the Commonwealth Financing Authority to issue a bond for the outstanding payments owed to school for the missed 2015-16 payments and for 2016-17 obligations due, as well as reduce reimbursement backlogs.

Act 85 of 2016: Fiscal Code/School District Intercepts

House Bill 1605, now Act 85 of 2016, amends the Fiscal Code to provide for the 2016-17 state budget implementation and making other changes. Of particular interest is a new article is added to provide for the intercept of school subsidy payments by the Department of Education when annual appropriations have not been enacted by July 1 and continue to be not enacted when a school district debt service payment is due. Any payments made will be deducted from the school district's allocations upon the enactment of a budget. The total amount of all intercept payments may not exceed 50% of the total non-Federal General Fund subsidy payments made to a school district in the prior fiscal year. The state may not issue tax anticipation notes or enter into a loan agreement with the Treasury Department to provide cash flow for intercept payments.

Taxation

Act 48 of 2015: Training for Tax Collectors

House Bill 823, now Act 48 of 2015, makes clarifications and revisions to Act 164 of 2014, providing for basic and continuing education requirements for tax collectors, mandatory background checks for tax collector candidates and the appointment of a deputy tax collector. The municipality for which the tax collector was elected must sign off on the deputy, along with the tax collectors bond company, before an appointment is made.

Act 93 of 2015: PSERS/SERS Compliance

House Bill 1332, now Act 93 of 2015, amends the Public School Employees' Retirement Code and the State Employees' Retirement Code to make updates and technical changes to maintain compliance with the Internal Revenue Service (IRS) rules in order to maintain tax deferred status for current school district and state employee retirement benefits.

Act 89: Clean and Green Amendments

House Bill 806, now Act 89 of 2016 amends the PA Farmland and Forest Land Assessment Act of 1974 (known as Clean and Green) to prohibit the application of use values that result in assessments higher than fair market value. The intent of the law is to provide a reduction of property taxes by assessing the enrolled land at its use value rather than at its fair market value. In applying preferential assessment to eligible land, county assessors are responsible for establishing use values for three land use categories: agriculture use, agricultural reserve and forest reserve. The Department of Agriculture annually provides counties with use values (by county) for all three land use categories. A county may use the department's values or something lower. In some cases, usually in counties that have not implemented a countywide reassessment in many years, the use value assessment is higher than if the land wasn't enrolled in preferential assessment (fair market value assessment).

In counties where a countywide reassessment has not been conducted for many years, the fair market values may be lower than the use values provided by the department. In those counties, being enrolled in Clean and Green provides no tax benefit.

Under Act 89, for all three land use categories, a county assessor must apply the use values in effect as of the effective date of the bill (July 20, 2016), and use those values until the next countywide reassessment. This essentially "freezes" the use values. In the year a countywide reassessment becomes effective, a county must establish new use values for all three land use categories and use them until the next countywide reassessment.



Student Issues

Act 44 of 2015: Youth Sports Officials

House Bill 315, now Act 44 of 2015, amends the Child Labor Act to allow youth as young as 12 to be employed as a “youth sports official” without a work permit. A youth sports official is defined as a minor who enforces the rules and supervises participants in a youth sporting event, including acting as an umpire or referee. The same time and rest restrictions and requirements that currently apply to 14- and 15-year-old employees under the law also apply to youth sports officials.

Act 1 of 2016: Delay in Graduation Requirements

Senate Bill 880, now Act 1 of 2016, creates a two-year delay in the implementation of the Keystone Exams in Algebra 1, Biology, and English/Language Arts as a graduation requirement or a benchmark for the need to participation in a project-based assessment (PBA) until 2019. Act 1 also requires the PA Department of Education (PDE) to investigate alternatives to the use of the Keystone Exams as a requirement for graduation and issue a report within six months (Aug. 3) to the House and Senate Education Committees. The report must contain a plan to implement alternative methods to demonstrate proficiency for graduation in addition to the Keystone Exams and PBAs; and improve and expedite the evaluation of PBAs. The plan also must ensure that no student is prohibited from participating in vocational-technical education or elective courses as a result of taking required supplemental instruction.

In August 2016, PDE released its report to the General Assembly, recommending four options to replace the mandate for students to pass three Keystone Exams or a PBA in order to graduate. The General Assembly will consider the recommendations; this issue will be further discussed in 2017.

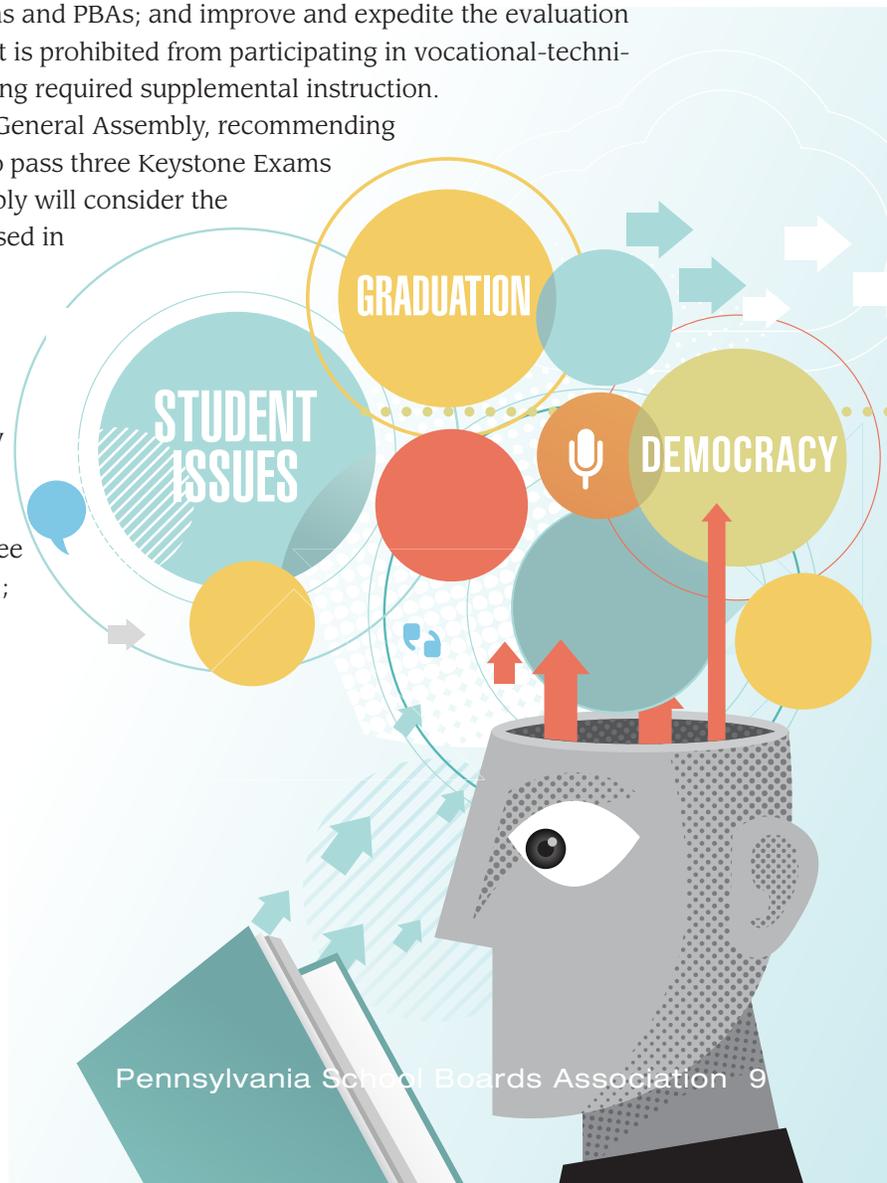
PDE Recommendations

Recommendation 1: Adopt and implement four options for students to demonstrate postsecondary readiness as follows:

Option 1: Achieve an identified composite score, based on the combined performance across all three Keystone exams (Algebra I, Biology and Literature);

Option 2: Achieve equivalent score(s) in standards-based subject matter content area(s) on one of the alternate assessments approved by PDE (such as an SAT, PSAT, ACT, AP and/or IB exam);

Option 3 (for CTC concentrators): Demonstrate competency in standards-based subject matter content through course grades or assessments plus, for students who are identified as Career and Technical Education (CTE) Concentrators, demonstrate evidence of readiness for postsecondary



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success through National Occupancy Competency Testing Institute (NOCTI)/National Institute for Metalworking Skills (NIMS) Skills assessments or Competency Certificates; and

Option 4: Demonstrate competency in standards-based subject matter content through course grades or assessments plus evidence related to postsecondary plans that demonstrate readiness to meaningfully engage in those plans.

Recommendation 2: Discontinue the use of Project Based Assessments as an option for meeting state graduation requirements.

Recommendation 3: Allow local education agencies (LEA) to determine whether or not to include Keystone exam scores on student transcripts.

Act 26 of 2016: Work Experience for High School Students with Disabilities

House Bill 400, now Act 26 of 2016, requires the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry to facilitate the process of job and career development between school districts and employers to ensure the successful transition of high school students with disabilities into competitive, integrated employment. It requires the OVR to prepare the students for internships, on-the-job training and full and part-time employment in an integrated work environment. It also provides placement assistance and job coaching.

Act 31 of 2016: Anti-hazing

House Bill 1574, now Act 31 of 2016, expands Pennsylvania's anti-hazing law applicable to institutions of higher education to also apply to public and private secondary schools (grades 7-12). The school board must adopt a written anti-hazing policy and provide a copy of the policy, rules, penalties and program of enforcement to all athletic coaches involved in organizations within the secondary school. The policy must also be posted on the district's website. Penalties may include fines, withholding of fines, or imposition of probation, suspension, dismissal or expulsion. Penalties may also include rescission of permission of an organization to operate on school property or under the sanction of the school.

Act 138 of 2016: Truancy Reform

House Bill 1907, now Act 138 of 2016, provides significant improvements to the truancy system in Pennsylvania. The act clarifies and updates definitions and the process for addressing unexcused absences. Act 138 also makes changes to the penalty provisions in a manner that promotes a proactive approach to truancy and greater flexibility in the imposition of intervention and penalties for truancy.

Among other changes, Act 138 modernizes the definitions of Section 1326 of the School Code by:

- Clarifying that a student is "habitually truant" when the student has six or more unexcused absences within a school year;
- Providing specific definitions for "school year" and "school day"; and
- Adding a definition for a "School attendance improvement conference" to encourage school districts to take a proactive approach to unexcused absences by offering the student and their parents/guardians an opportunity to address the underlying cause(s) of the student's absences.

Act 138 also makes changes to the intervention and penalty provisions by:

- Requiring that schools offer and hold a school attendance improvement conference before a truancy citation is filed in order to: examine the reasons for the child's absences and develop a written school attendance improvement plan. In addition to the appropriate school officials, both the child and the person in parental relation shall be invited to the conference.
- Providing schools with the discretion to refer children to a school or community based program, make a referral to children and youth services, or file citation against a parent or child depending on the age of the child.
- Enabling the courts to exercise the discretion to suspend sentences for truancy convictions and waive fines if the child is attending school in compliance with the court's plan.
- Precluding additional citations for truancy violations from being filed while a truancy proceeding is already pending.
- Organizing and clarifying the penalties for violating the compulsory attendance law. Clarifies that either fines, community service, attendance at a course or program designed to improve school attendance shall be the first penalty imposed for a violation of the compulsory attendance law.
- Permitting a child who has a summary offense conviction for violations of the compulsory school attendance requirements to have the record expunged if specified requirements are met.

Loss of driving privileges has always been an option for a child who fails to comply with a lawful sentence for a judge to use in an attempt to enforce compliance with the compulsory attendance law. Act 138 clarifies the law and ensures the restoration of driving privileges under certain circumstances and permits a child to receive an occupational limited license.

In addition, the law adds provisions addressing students with chronic health conditions who are dismissed during school hours for health-related reasons. Act 138 also requires charter and cyber charter schools to: develop attendance policies that address unexcused absences; report unexcused absences directly to the PA Department of Education annually; take steps to address unexcused absences; and, file citations for truancy directly with the appropriate court.

School Employees

Act 15 of 2015: Amendments to the Child Protective Services Law

House Bill 1276, now Act 15 of 2015, makes clarifying changes to the Child Protective Services Law (CPSL) as amended in 2014. The act clarifies existing statute with respect to individuals required to obtain background checks and how the law applies to volunteers. It also adds definitions to the law to provide further clarity.

Definitions

Act 15 adds definitions of “adult family member,” “direct volunteer contact,” “education enterprise,” “family child-care home,” “immediate vicinity,” “institution of higher education,” “routine interaction,” and “matriculated student.” It amends the definitions of “school,” “school employee,” “independent contractor,” “child-care services,” “perpetrator,” “person responsible for the child’s welfare,” and “program, activity or service.”

- “Direct volunteer contact” is defined as “The care, supervision, guidance or control of children and routine interaction with children.”
- “Immediate vicinity” is defined as “An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.”
- “Routine interaction” is defined as “Regular and repeated contact that is integral to a person’s employment or volunteer responsibilities.”

For the definitions of “child-care services,” “independent contractor,” and “school employee,” the terms do not “apply to administrative or other support personnel unless the administrative or other support personnel has direct contact with children.”

Mandated reporters:

The act amends § 6311(a)(7), which now reads: “(7) An individual paid or unpaid, who, on the basis of the individual’s role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child’s welfare or has direct contact with children.” The act amends § 6311(a)(12) to include as a mandated reporter: “An individual supervised or managed by” an “Independent Contractor” “who has direct contact with children in the course of employment.” (NOTE: This change to capture employees of an independent contractor in the list of mandated reporters is important because “independent contractor” does not necessarily include employees of the independent contractor who have direct contact with children.)

Certifications (previously called, “clearances”):

With regard to employees:

- Federal Criminal History (FBI) Check Exemption for Minors: A minor between the ages of 14 and 17 who is employed as a person responsible for the child’s welfare or a person with direct contact with children through a program, activity or service is required to get only the state criminal history check and the child abuse history clearance if: (1) the minor has lived in the commonwealth for 10 years and (2) the minor and his/her parent/guardian affirms that s/he has not been convicted of a

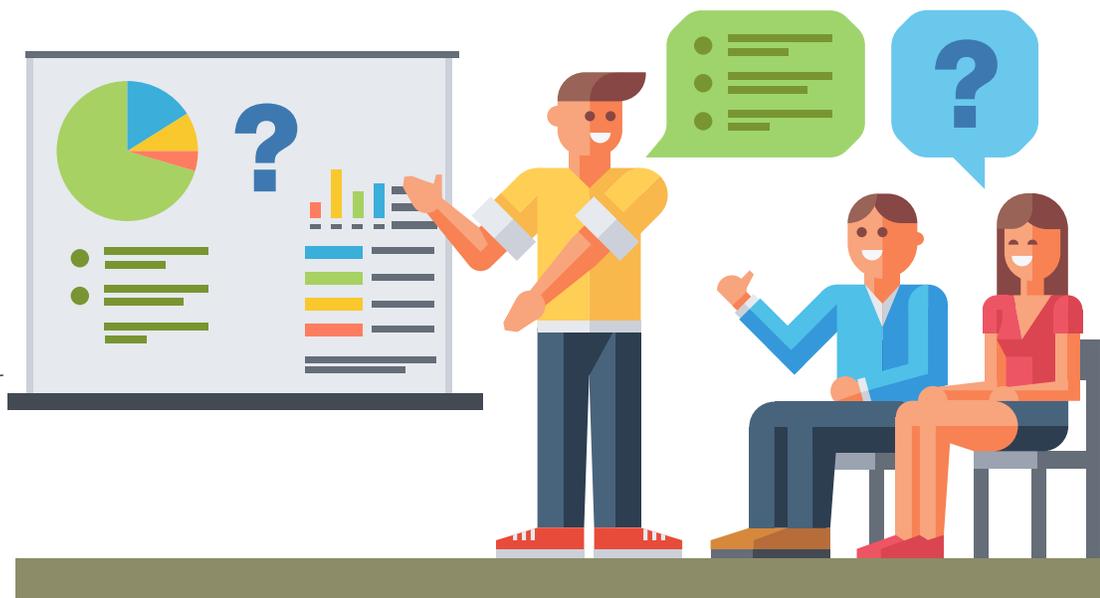
School Employees

disqualifying crime. (NOTE: Under Section 111 of the Public School Code, a minor who is employed by a school entity and has direct contact with children is currently required to get the state and federal criminal history checks.)

- **Exemption for Exchange Visitors:** If an individual with a J-1 Visa is applying for a paid position with a program, activity or service, which will not exceed 90 days in a calendar year, the individual is not required to obtain certifications as long as the individual swears or affirms in writing that s/he has not been convicted of a disqualifying crime and the individual has not previously been employed in Pennsylvania, another state, D.C., or Puerto Rico.
- **Exemption for Institutions of Higher Education:** Employees of institutions of higher education do not need to get the required certifications (State, Federal, and Child Abuse) if: direct contact is limited to (1) prospective students visiting campus; or (2) matriculated students enrolled in the institution who are not enrolled in a secondary school.
- The changes narrow the category of individuals 14 years of age or older who need certifications. Section 6344(a)(5) now reads: (i) Except as provided under subparagraph (ii), an individual 14 years of age or older who is applying for or holding a paid position as an employee with a program, activity or service, as a person responsible for the child's welfare or having direct contact with children.
- If the program, activity or service is an internship, externship, work-study, co-op or similar program, the adult identified by the school and employer as the child's supervisor and person responsible for the child's welfare must obtain all three certifications. The identified adult is required to be in the immediate vicinity at regular time intervals with the child during the program.
- An employer is prohibited from accepting for employment purposes certifications that were obtained free of charge for volunteering purposes. Certifications obtained for volunteer purposes can only be used for other volunteer activities; such certifications will indicate that they are to be used for volunteer purposes only.

Timeline:

- Current employees with clearances older than five years as of Dec. 31, 2014, were required to get new ones within one year of Dec. 31, 2014 (i.e., no later than Dec. 31, 2015). Current clearances that are less than five years old will expire at the five-year anniversary of the employee's oldest certification, and those employees will need to get them before that anniversary, even if that means earlier than Dec. 31, 2015.



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With regard to volunteers:

- A volunteer subject to the requirements of the CPSL is now defined as “an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school, or a program, activity or service, as a person responsible for the child’s welfare or having direct volunteer contact with children.”
- All volunteers subject to the requirements must obtain a state criminal history check and a child abuse history clearance and swear or affirm in writing that s/he has not been convicted of a disqualifying crime. Volunteers who have not lived in the commonwealth for the entirety of the previous 10-year period and who have not obtained a federal criminal history check since establishing residency are also required to submit a federal criminal history check.
- No certifications are required for a student volunteering for an event sponsored by the school in which the student is enrolled and occurring on the school’s grounds, except when the event is for children in the care of a child-care service or the student will otherwise be responsible for the welfare of a child.

Fees:

- For volunteers required to obtain certifications under the CPSL, the fee has been waived for the state criminal history check and the child abuse clearance so long as the certifications are not used for other purposes. Such certifications are provided at no charge only once every 57 months.
- In identifying such volunteers required to get certifications pursuant to the law, the employer is presumed to act in good faith. (NOTE: Employers must be careful when crafting policies and establishing standards, as the fee waiver only applies to those volunteers required to obtain certifications.)

Timeline – With respect to volunteers required to get certifications pursuant to the law, the phase in worked as follows:

- Beginning Aug. 25, 2015, all new volunteers were required to submit certifications prior to the commencement of service. Volunteers who obtained certifications prior to Aug. 25, 2015, must obtain new certifications 60 months from the date of the person’s oldest certification. If current certification is older than 60 months as of Aug. 25, 2015, new certifications had to be obtained by July 1, 2016.
- Volunteers approved before Aug. 25, 2015, without certifications had to obtain the required certifications by July 1, 2016.

With regard to portability:

- Certifications are portable as long as they are current.

With regard to recertification for volunteers and employees:

- New certifications must be obtained every 60 months (five years) from the date of the oldest certification.

With regard to submission of child abuse history clearance (employees and volunteers) and state and federal criminal history checks (volunteers):

- Eliminates language referring to submission of original document (This is important, since it is no longer possible to distinguish between an original and a copy.)

Act 4 of 2016: Background Checks (Certifications)

House Bill 158, now Act 4 of 2016, aligns provisions in the School Code regarding background checks with changes to the Child Protective Services Law under Act 15 of 2015. Despite the new portability and five-year renewal provisions in Act 15, Section 111 of the School Code still required that state and federal criminal history reports submitted by prospective employees be no more than one year old. Act 4 amends Section 111 to contain the same five-year provisions.

Act 118 of 2016: Extension on Professional Education Requirements

House Bill 1734, now Act 118 of 2016, provides a one-year extension to public school entities to submit a three-year professional education plan to the state Department of Education and allows the current plan to remain in effect during the extension. The act also provides a one-year extension for of the professional education compliance period for teachers and administrators.

Act 143 of 2016: Expedited Teacher Certification

House Bill 2078, now Act 143 of 2016, amends the School Code to require the PA Department of Education (PDE) to process completed applications for permanent certification within 14 days for active military personnel, veterans and their spouses. The act also allows educators with inactive Pennsylvania certification who have maintained “active” certification on other states to return to Pennsylvania and have their certification be returned to active status. The law codifies a policy implemented by PDE in 2016.

School Operations

Act 49 of 2015: School Bus Driver Qualifications/Other CDL Changes

Senate Bill 925, now Act 49 of 2015, amends the Vehicle Code to make numerous changes to the law regarding commercial driver licenses (CDL). Regarding school bus drivers, Act 49 extends the time period in which a school bus driver must have his or her required physical examination, including an eye exam, from 12 months to 13 months. Act 49 updates the CDL testing standards and adjusts a variety of license classifications, endorsements and restrictions. These changes put Pennsylvania in compliance with new guidelines issued by the U.S. Department of Transportation's Federal Motor Carrier Safety Administration.

Act 4 of 2016: Emergency Day Flexibility

House Bill 158, now Act 4 of 2016, amends the School Code to allow the secretary of education to issue weather, safety or health related emergency declarations under which school entities can be given additional flexibility to satisfy the 180 instructional days per school year requirement. The act allows a school board to approve a school year with a minimum of 900 hours of instruction at the elementary level and 990 hours of instruction at the secondary level in lieu of 180 days, or to schedule additional instructional days of not more than one Saturday per month to complete the minimum hour or day requirements. In addition, Act 4 aligns provisions in the School Code regarding background checks with changes to the Child Protective Services Law under Act 15 of 2015.

Omnibus School Code Amendments of 2016

Act 86 of 2016: Omnibus School Code Amendments

House Bill 1606, now Act 86 of 2016, amends the School Code regarding the distribution of state budget funds and addresses other issues. It includes these provisions:

SchoolWATCH – The Pennsylvania Department of Education (PDE) is required to post annual financial information related to public school entities on its Internet website. Requires the following information to be posted related to each school entity: total expenditures by category; per student expenditures; charter school tuition rates; average daily membership; average teacher salary; total revenue by source; general fund balance; a link to the school’s website; a summary of financial report data; a non-administrative and administrative staff compensation report; and, a statement instructing the public to contact the public school entity for access to any union contract. The information must be posted on the entity’s School Performance Profile. No public school entity will be required to provide any additional information not specifically required as of the effective date of the legislation, and no public school entity shall be required to provide additional information beyond the information required to be provided by any other public school entity.

Ready-to-Learn Block Grants – Provides for the distribution of \$250 million for Ready-to-Learn Block Grants for school entities in the same amount as was allocated for 2015-16.

Special education funding – Implements the Special Education Funding Commission’s recommended formula currently contained in the Fiscal Code. The formula considers a weighted student count based on student costs, wealth, tax effort and sparsity/size.

Contingency fund - Provides 1% of the special education funding appropriation to be set aside for the contingency fund to be used for extraordinary expenses.

IU funding - Provides for intermediate units to be funded at an amount equal to 5.5% of the special education funding appropriation.

Approved private schools - Provides for any unspent funds from the appropriation for approved private schools that are returned after the annual audit is submitted to be redistributed to the schools that have exhausted their state allocation to allow for the education of additional students.



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Payments on account of Social Security – Provides for Social Security payments to be made on a quarterly basis. Requires employers to submit a report to PDE documenting all wages for which payments are calculated on the 20th day of the month following the end of the quarter and for PDE to make payment on the fourth Tuesday of the month following the end of the quarter.

PlanCon Advisory Committee - Requires the Public School Building Construction and Reconstruction Advisory Committee that was established under Act 25 of 2016 to consider whether the state should implement a comprehensive public school building safety program. The committee was originally tasked to review and make recommendations related to the PlanCon program for reimbursement of school construction and renovation projects. PSBA has a seat on the committee.

E-chievement hybrid learning grants – Establishes a program within PDE to award planning grants of up to \$50,000 and implementation grants of up to \$250,000 to school districts, intermediate units, area vocational-technical schools and charter schools to provide hybrid learning programs that blend digital resources with classroom teaching. School entities that want to work together may submit a joint application. Schools that are awarded grants must provide a cash or in-kind local match of money of at least 25% of the total project cost and agree to share lessons with other grantees. The grants cannot be counted as expenditures when calculating a school district's charter school payment amount. At least 15% of the funds appropriated for the program must be used to support schools in the lowest 5% based on academic performance.

Data collection reduction – Requires the State Board of Education to establish an advisory committee for the purpose of identifying and issuing a report regarding redundant, overly burdensome or unnecessary public school entity data collection requirements. One school board member is to be named to the advisory committee. At the conclusion of the school year following the issuance of the report, the PDE must terminate all the identified requirements that are not required by law or regulation. (NOTE: The advisory committee's report is expected to be released in early 2017.)

Posting of school district policies – Requires school districts to post on their websites policies that are required to be adopted under state and federal law.

Bereavement leave – Adds grandchild to the list of near relatives for whose funeral day a professional or temporary professional employee of a school district may be absent with pay.

College students as substitute teachers – Allows college students who have completed 60 credit hours and who are enrolled in a teacher preparation program at a four-year college in Pennsylvania to substitute for 20 days per school year in any school district, area vocational-technical school or intermediate units in the state. For every year after their first year of substituting, college students would be required to obtain additional credits in order to remain a substitute. Students would receive a salary fixed by the school entity but would not be enrolled in the Public School Employees' Retirement System. The program will sunset in five years.

Omnibus School Code Amendments of 2016

Provisional vocational education certificates – Authorizes PDE to grant provisional education certificates to individuals who present the department with satisfactory evidence of good moral character and have completed the required work in vocational education. The certificate allow the recipient to teach for eight annual school terms.

Continuing professional education – Allows a professional educator to carry over excess continuing professional education credits or hours into the next five-year compliance period.

Diabetes care and management – Permits a student to self-monitor their diabetes care and allows possession and use of diabetic medication and monitoring equipment if determined competent to do so. Requires the Department of Health and PDE to establish modules and guidelines for the instruction of school employees in diabetes care. A school employee who is not a school nurse or licensed health care provider may receive training to assist students with administering insulin and glucagon and operating monitoring equipment. School employees have the right to decline responsibility for the care and treatment of a diabetic student.

Recovery High School Pilot Program – Establishes a four-year recovery high school pilot program in Philadelphia for up to 20 students in grades 9-12 in recovery from substance abuse. The program would be housed in a licensed private academic school with experience in providing recovery services and follows the standards of the Association of Recovery Schools. Funding for the students participating in the program would be shared between the school district of residence and the state. Establishes a per-student regular education tuition rate of \$20,000 with annual adjustments. The state will pay 60% of the tuition for each student and the school district of residence must pay 40%. The program will sunset in 2019-20 unless permanently established.

Administrative partnerships – Allows two or more school entities to enter into an agreement to share personnel and administrative services. Establishes the Administrative Partnership Grant Pilot Program to provide financial assistance to facilitate the sharing of administrative functions between school entities.

Career and technical education funding/equipment grants - Provides for the distribution of \$3 million for funding based on a formula that has a base amount of \$3,000 to each area vocational-technical school or school district with an approved program and distributes the remainder of funding based on average daily membership. Makes equipment grant funding language permanent.

Computer science/information technology grants – Allows students who successfully complete a course in computer science or information technology to use the credit for the course to satisfy a math or science graduation credit requirement.

Removal of the state obligation for charter school pension and employees' social security – Removes the requirement for the state to make payments to charter schools for contributions to retirement and social security payments.

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Charter school and cyber charter school aid ratio – Clarifies the method used to determine the aid ratio and market value/income aid ratio for charter schools and cyber charter schools. For a charter school, the aid ratio and market value/income aid ratio is the same as for the district that granted the charter. For a regional charter school, it will be a composite, as determined by PDE, based on the districts that granted the charter. For a cyber charter school, it will be that of the school district in which the administrative office of the cyber school are located.

Financial watch status – Identifies a school district that receives education access program funding equal to or greater than \$2 million in any one fiscal year to be identified for financial watch status. (This applies to the Erie City School District.)

Use of undistributed funds – Allows PDE to use up to \$4.5 million in undistributed funds to assist school districts in financial distress or identified for financial watch status.

Alternative education program applications – Reenacts provisions contained in the Fiscal Code requiring alternative education programs to submit application and renewal fees to PDE.

Regional rural college for underserved counties – Reestablishes the rural regional college in a multi-county area that is underserved by comprehensive college education. Provisions are currently contained in the Fiscal Code.

Educational Tax Credits – Reenacts in the School Code the Education Improvement Tax Credit (EITC) and Opportunity Scholarship Tax Credit (OSTC) which are currently in the Tax Reform Code. It increases the EITC tax credit from \$100 million to \$125 million. It also provides for the first \$10 million in tax credits available for reallocation to be set aside initially for pre-kindergarten scholarship organizations. The Department of Community and Economic Development is required to give written notice of reallocation application approvals to businesses within 30 days of receiving an application. The application date for a preferred tax credit is the same date as an alternative tax credit when the preferred credit is not available.

Wilkesburg/Pittsburgh students - Provides guidelines applicable to an agreement between the Wilkesburg School District and the School District of Pittsburgh regarding the assignment of elementary and secondary students. Students are considered as residents of the School District of Pittsburgh for purposes of enforcing compulsory attendance, programs for exceptional students, disruptive student programs, and career and technical education. If the adjacent district fails to make payments, PDE will deduct and pay the amounts due to the other district.

Regulations

School Immunization, Student Attendance

Changes to state regulations regarding immunization and school attendance were drafted and moved through the regulatory review process in 2016 in order to be effective for the 2017-18 school year. In November 2015 the Department of Health (DOH) and the Department of Education (PDE) announced their intention to begin a joint effort to revise their sets of regulations regarding immunization and school attendance.

In early 2016 the Department of Health's Advisory Health Board proposed amendments to its regulations under 22 Pa. Code, Title 28, Chapter 23 (School Health). The State Board of Education drafted amendments to its regulations under 22 PA. Code, Chapter 11 (Student Attendance). The most substantive changes are to the Chapter 23 regulations; the language under Chapter 11 simply states that children may not attend school unless the requirements under Chapter 23 have been met.

At the onset, revisions to both sets of regulations moved on parallel tracks so that they could be implemented as a package within the same timeframe. However, in June, the Independent Regulatory Review Commission (IRRC) told the State Board of Education that while it recognizes the coordination between the two agencies, it cannot determine whether the SBE proposal clarifying the use of temporary waivers of immunization requirements is in the public interest until the DOH's proposal is final. At that point, only the DOH proposal moved forward. On Oct. 20, 2016, the IRRC approved the DOH proposal after the department made some modifications based on public comment received. With the Chapter 23 approval process complete, the accompanying Chapter 11 changes will be considered in 2017.

The changes to current regulations under Chapter 23 will be effective on Aug. 1, 2017, but the Final Rulemaking is expected to be published in the *Pennsylvania Bulletin* no later than March 2017. This will enable schools to provide information to parents before kindergarten registration begins for the 2017-18 school year.

Following is a summary of some of the key changes under Chapter 23. For further information and updates regarding implementation for the 2017-18 school year, check the DOH website at www.health.pa.gov, and search for the "School Health" or "School Immunizations" pages.

Five-day rule/exclusions: Under the regulations, the current provisional waiver of eight months for school children to be fully immunized is reduced to five school days. The student must obtain the next or final dose within that five-day window or risk being excluded from school.

However, the student may attend school provisionally beyond the five days if he or she submits a medical certificate from a health care provider outlining the dates for additional vaccination.



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A health care provider includes a physician, certified nurse practitioner or a physician assistant.

If the student has not received all of the doses for a multiple dose vaccine series on the child's first day of attendance for that school year, the school administrator or a designee may not provisionally admit him or her unless the five-day rule can be met or a medical certificate is provided. (In the preamble that accompanies the regulation, the designee is assumed to be the school nurse.) Students that have not received a single-dose vaccine on their first day of attendance for that school year may not be admitted to school.

The regulations maintain the currently existing exemptions to immunization for medical, religious or philosophical reasons. A child who does not have an exemption and who does not receive the required immunizations may be excluded in that school year and each succeeding school year that the child fails to comply.

Other changes

Students must now have one additional dose of Meningococcal Conjugate Vaccine (MCV) before entry into the 12th grade. A dose received at age 16 or older counts as the 12th grade required dose. The new rule changes the time for school administrators or designees to review medical certificates for student compliance from every 60 days to every 30 days. It also extends the deadline for schools to report immunization data to DOH from Oct. 15 to Dec. 31.

Students who are homeless as defined under the McKinney Vento Act are excluded from these rules. Also, children transferring from outside the state as well as children in foster care will have 30 days to provide immunization records or provide a medical certificate. The school must comply with all federal laws pertaining to the educational rights of children in foster care. A child who is unable to provide the necessary records, medical certificate or exemption may be excluded at the end of the 30-day period and in subsequent school years until the requirements are met.

The DOH removed its earlier proposed language that would have prohibited parents from being able to provide a written statement of history of chickenpox. The final version maintains the current ability for parents (or a health care provider) to give a history of disease as proof of immunity. However, evidence of immunity for measles and mumps must still be certified by a health care provider.

The department has drafted the newly-required medical certificate for review, and anticipates that it will be available to schools by March 2017. The DOH also intends to provide training and educational materials for schools to use with families, and will also provide schools with training on the electronic reporting system.

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- Act 1: Delay in Graduation Requirements
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Regulations: School Immunization, Student Attendance

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