



a closer LOOK



School mandate waiver program brings flexibility, accountability, savings

School districts need relief from mandates that are cumbersome, expensive, and in some cases, antiquated. One specific solution is the program established in Senate Bill 73 and the soon-to-be introduced House companion bill, which would allow school districts to apply for a waiver from certain, but not all, state-imposed mandates in order to benefit students and taxpayers.

Public education is easily among the most regulated activities of government. Pennsylvania's 500 public school districts are required to comply with hundreds of individual mandates. Mandates have the effect of determining what schools are able to do, how they must do it and, ultimately, how much they will spend in order to get it done. At a time when school districts and the General Assembly are dealing with the impacts of the COVID-19 pandemic, enacting much-needed mandate relief would provide flexibility, allow for innovation, and make additional resources available without the need to rely solely on increased revenues.



Wide scope of education mandates

Some mandates come from the federal government, but most mandates come from state laws, regulations and other types of guidance. The scope of mandates affecting school districts is very wide, encompassing areas such as:

- Buildings and construction
- School safety
- Child protection
- Employment and personnel issues
- Collective bargaining
- Instruction and assessment
- Special and gifted education
- Health and wellness services
- Student services
- Transportation, including for nonpublic and charter school students
- District operations including budgeting and taxing requirements, creation of specific policies, reporting requirements, due process requirements, legal advertising and requirements for the release of public records.

Combined effect of mandates

Certainly, many mandates are necessary; they create standards of quality for learning and safety for students and staff, as well as expectations and accountability. However, many mandates are created to address a particular problem, real or perceived, during a specific time. Considered separately, they usually can be defended as a sincere effort to enhance the quality of education. Their combined effect, however, can become a burdensome task of complying with deadlines, reporting and other paperwork, programs and procedures. As time passes, the problems the mandate was intended to address may disappear, or more efficient alternatives may arise.

While some mandates may impose only minimal costs, others are major cost drivers with a critical impact on district budgets. Despite being imposed by the state and federal governments, most mandates come with no, or little, funding to implement those mandates. To pay for these unfunded and underfunded mandates, school districts are forced consider options that include raising local taxes, using up reserve funds, or cutting spending or adjusting operations in other areas. This can include increasing class sizes, cutting staff positions, eliminating or reducing programs or extracurricular offerings, or postponing maintenance or technology upgrades.

The case for a mandate waiver program

Why allow districts to apply for waivers from mandates? State mandates often are painted with a broad brush; what may constitute a useful mandate in one school district may prove to be an obstacle to education reform in another. Local school leaders know best the needs of their district. If a particular mandate is unfunded or underfunded, but its absence would not significantly affect the quality of education, school districts should be permitted to suspend or modify the requirement.

The use of mandate waivers would help districts to control costs and provide enhanced educational programs. The result would be a more efficiently run district and local taxpayer savings.



History has demonstrated that school leaders can stretch available dollars further when restrictive state requirements are relaxed. For instance, some limited relief was achieved through the mandate waiver program that was created under Act 16 of 2000 and expired in 2010. The program allowed school districts to apply for waivers from certain provisions of the School Code and State Board of Education regulations. Last year, a temporary waiver program was enacted as part of the emergency pandemic legislation in Act 13 of 2020. School leaders strongly supported the return of a relief program and the plan received unanimous support in the General Assembly. However, the waiver provisions in Act 13 were only available from April through June of 2020. Public school leaders need a permanent solution.

Permanent, broad mandate relief

Senate Bill 73 (Sen. Langerholc, R-Cambria) and the soon-to-be introduced House companion bill by Rep. Staats (R-Bucks), would establish a program that would allow public schools to apply to the Pennsylvania Department of Education (PDE) for a waiver of some, but not all, state-imposed mandates. The school must describe in its application that the waiver would enable its instructional program to improve or that the school will operate in a more effective, efficient or economical manner. Certain laws and regulations would not be waivable, such as those relating to student safety, academic standards and assessments, special education, protected handicapped students, gifted education, student attendance, and professional educator conduct standards, among others.

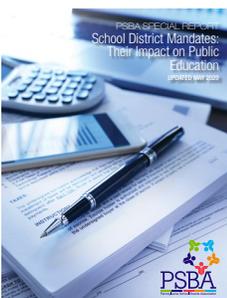
The mandate waiver program contains both flexibility and accountability. To begin the process, a school board would have to adopt a resolution at a public meeting announcing its intention to apply for a mandate waiver. The school district would then submit an application to PDE, specifying the provision of state law or regulation for which it is seeking a waiver, the rationale for the request and supporting information to explain the benefits expected to be obtained because of the waiver.

Mandate waivers would help districts to control costs and provide enhanced educational programs.

PDE would have 30 days from receipt of the application to approve, disapprove or request modifications to the request. Any request that complies with the application process, provides all of the required information and does not conflict with any other law or regulation that is not permitted to be waived will be approved. PDE would maintain an updated listing of approved waivers on its website.

Conclusion

School districts need relief from cumbersome, expensive, and in some cases, antiquated, mandates. Now is the time to allow school districts more latitude in operating their schools. The mandate relief program established in the Senate and House legislation is designed to relieve school districts from the effects of state-imposed unfunded and underfunded mandates and free up resources that can be used to ensure that school districts are responsive to the needs of their students and the communities in which they reside.



For a more detailed exploration of school district mandates, read PSBA's comprehensive report on school district mandates and their impact on public education, available at <https://www.psba.org/wp-content/uploads/2020/05/Mandate-report-2020-WEB.pdf>.