

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 73 Session of 2021

INTRODUCED BY LANGERHOLC, MARTIN, ARGALL, STEFANO, AUMENT,  
 J. WARD, DiSANTO, PHILLIPS-HILL, KEARNEY, MASTRIANO, ARNOLD,  
 GORDNER, MENSCH, PITTMAN AND BAKER, JANUARY 20, 2021

REFERRED TO EDUCATION, JANUARY 20, 2021

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, providing  
 6 for mandate waiver program.

7 The General Assembly of the Commonwealth of Pennsylvania  
 8 hereby enacts as follows:

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

12 Section 129. Mandate Waiver Program.--(a) Except as  
 13 otherwise provided in this section, a governing body may adopt a  
 14 resolution to apply to the department for a waiver of one or  
 15 more provisions of this act, regulations of the State Board,  
 16 standards of the secretary, policies or guidance of the  
 17 department or any other provisions of law permitted to be waived  
 18 under this section to enable the school entity to improve  
 19 instructional programs or operate in a more effective, efficient

1 or economical manner.

2 (b) The application for a waiver shall be submitted in a  
3 manner and on a form established by the department. The  
4 application may only require applicants to:

5 (1) Specify the provisions of this act, regulations of the  
6 State Board, standards of the secretary or policies or guidance  
7 of the department for which the applicant is seeking a waiver.

8 (2) Include the reasons why the waiver is being requested.

9 (3) Provide supporting data or information to explain the  
10 benefits expected to be obtained as a result of the waiver.

11 (c) Each application for waiver shall be adopted by a  
12 resolution of a governing body at a regularly scheduled meeting  
13 of the governing body. Approval from the department shall be  
14 required prior to implementing the waiver.

15 (d) The department, in considering each waiver application:

16 (1) May not impose any additional requirements on the waiver  
17 applicant other than the requirements specified in this section.

18 (2) Shall approve any waiver application that:

19 (i) Complies with the application process and provides all  
20 information required in the application form developed by the  
21 department under subsection (b).

22 (ii) Does not conflict with a provision of Federal law or  
23 regulation or any other law or regulation that is not permitted  
24 to be waived under this section.

25 (e) The department shall have thirty (30) days from receipt  
26 of the waiver application to issue a written approval,  
27 disapproval or request modifications to the application. If the  
28 department fails to act within that time period, the waiver  
29 application shall be deemed to be approved.

30 (f) (1) If the department requests modification to or

1 disapproves the waiver application, the specific reasons for the  
2 department's request or disapproval shall be transmitted to the  
3 waiver applicant.

4 (2) If the department denies an application, the response to  
5 the applicant shall include an explanation of any provision of  
6 law, regulation of the State Board, standard of the secretary or  
7 policies or guidance of the department that is not subject to  
8 waiver under this section and would be violated if the  
9 application were granted.

10 (3) The waiver applicant may submit a revised application  
11 for a waiver in accordance with subsection (c).

12 (4) A waiver applicant may appeal a disapproval to the  
13 secretary pursuant to 2 Pa.C.S. Chs. 5 (relating to practice and  
14 procedure) and 7 (relating to judicial review). A waiver  
15 applicant shall not be required to revise and resubmit the  
16 waiver application prior to appealing a disapproval.

17 (g) A waiver shall remain in effect permanently unless  
18 rescinded by the governing body or found by a court of competent  
19 jurisdiction to be in violation of subsection (d)(2)(ii).

20 (h) The following shall not be subject to waiver pursuant to  
21 this section:

22 (1) The following provisions of this act: sections 106, 108,  
23 110, 111, 111.1, 321, 322, 323, 324, 325, 326, 327, 328, 431,  
24 436, 437, 440.1, 443, 513, 518, 527, 701.1, 708, 740, 741, 751,  
25 752, 753, 771, 776, 785, 808, 809, 810, 1073, 1073.1, 1076,  
26 1077, 1080, 1302, 1303, 1310, 1310.1, 1317, 1317.2, 1318, 1327,  
27 1327.1, 1327.2, 1330, 1332, 1361, 1366, 1501, 1502, 1513, 1517,  
28 1518, 1521, 1523, 1526, 1546 and 1547, provisions prohibiting  
29 discrimination, Articles VI, VI-A, XI, XI-A, XII, XIII-A, XIII-  
30 B, XIII-C, XIII-D, XIII-E, XIV, XVII-A and this section.

1     (2) The following provisions of 22 Pa. Code (relating to  
2 education):

3     Chapter 4 (relating to academic standards and assessment).

4     Chapter 10 (relating to safe schools).

5     Chapter 11 (relating to student attendance).

6     Chapter 12 (relating to students and student services).

7     Chapter 14 (relating to special education services and  
8 programs).

9     Chapter 15 (relating to protected handicapped students).

10    Chapter 16 (relating to special education for gifted  
11 students).

12    Chapter 235 (relating to Code of Professional Practice and  
13 Conduct for Educators).

14    Chapter 711 (relating to services and programs for children  
15 with disabilities).

16    (3) For intermediate units, Article IX-A and 22 Pa. Code  
17 Ch. 17 (relating to intermediate units).

18    (4) For area career and technical schools, Article XVIII and  
19 22 Pa. Code Ch. 339 (related to vocational education).

20    (i) The department shall maintain and annually update a  
21 listing of all approved waiver applications on the department's  
22 publicly accessible Internet website. The listing shall include  
23 the name of the school entity and the provisions of law,  
24 regulation, standard of the secretary or policies or guidance of  
25 the department for which waivers were granted.

26    (j) Nothing in this section shall be construed to supersede  
27 or preempt any provisions of a collective bargaining agreement  
28 in effect on the effective date of this subsection.

29    (k) As used in this section, the following words and phrases  
30 shall have the meanings given to them in this subsection unless

1 the context clearly indicates otherwise:

2 "Department." The Department of Education of the  
3 Commonwealth.

4 "Governing body." A board of school directors or other  
5 governing authority of a school entity.

6 "School entity." A school district, charter school, cyber  
7 charter school, regional charter school, area career and  
8 technical school or intermediate unit.

9 "Secretary." The Secretary of Education of the Commonwealth.

10 "State Board." The State Board of Education.

11 "Waiver applicant." A school entity that applies for a  
12 waiver under this section.

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