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OMNIBUS SCHOOL CODE AMENDMENT UPDATE

The Pennsylvania Legislature passed House Bill No. 1067 on Friday, July 4, 2008. It became Act 61 of 2008 when signed by Governor Rendell on Wednesday, July 9, 2008. This is the annual Omnibus School Code Amendment bill, which is retroactive to July 1, 2008. The following are the significant highlights:

1. **Background Checks.** Sections 111(B), (C)(1) and (C)(2) were amended to facilitate the electronic transmission of criminal history background checks for prospective employees and independent contractors.
2. **Graduation Exams.** PDE is prohibited from further promulgating, approving, or proposing a regulation to change or establish high school graduation requirements during the 2008-2009 fiscal year.
3. **Reopening 2008-2009 Budget.** A school district may reopen its 2008-2009 budget to reflect any additional state allocations provided by the General Assembly.
4. **Placement of Twins.** Section 1310.1 was added concerning the classroom placement of twins or higher order multiples. Parents may now request that their children be placed in the same classroom or in separate classrooms. The request must come not later than ten (10) days after the first day of school, or ten (10) days after the students' first day of attendance. The school district may recommend placement and help the parents' make an informed decision, and must follow the parents' wishes unless the Superintendent and Principal determine that alternative placement is necessary, the Principal and the classroom teacher determine that the placement is disruptive, or the placement would require the school district to add an additional class. The parents may appeal a decision as to placement consistent with the district's policy. The school district should amend or create a policy to govern this new requirement.
5. **Bullying Policy.** In addition to authorizing grants through the Office of Safe Schools to develop and implement research-based violence prevention programs to reduce bullying, the Act has added new requirements for bullying policies. No later than January 1, 2009, all school districts must adopt or amend a bullying policy. The policy must include disciplinary consequences and include the appropriate school staff to receive bullying reports, and may provide for prevention, intervention and education programs. The policy must be posted on the district's website, in every classroom, and in a prominent location within each school building. Districts must review the policy every three (3) years, and provide annual reports to the Office of Safe Schools. The district's definition of "bullying" may cover

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acts that occur outside a school setting. The Act contains a detailed definition of "bullying" that covers electronic acts. The school district should review its bullying policy, make sure it is properly posted, and be prepared to provide the required annual reports.

6. **Disciplinary Records.** Section 1305-A now covers access to discipline records for students who transfer between public and nonpublic schools. The school to which the student has transferred should request the disciplinary record, and the sending school has ten (10) ten days to provide a certified copy. The same applies for transfers between schools within the same school entity.

7. **Education Assistance Funding.** In the event that insufficient funds are appropriated in the 2008-2009 fiscal year for Educational Assistance Funding, the payments that are made will be on a pro rata basis.

8. **Head Start/Early Learning Programs.** Effective June 30, 2009, the definition of "Eligible Provider" is changed to include Keystone Star 3 rated child day care center or group day care home rather than Star 2.

9. **Virtual High School.** Creates a Virtual High School Commission to examine the feasibility and costs associated with creating a state-operated, internet-based high school.

10. **Charter Schools.** There are several amendments to the Charter School Law.

a. Philadelphia School District. Philadelphia is now permitted to give existing charters a one (1) year renewal in the event that there is not enough academic data to support a full five (5) year renewal. Philadelphia may also permit a charter school to open in more than one location. Finally, Philadelphia is permitted to use the failure to meet specific performance standards when determining whether to revoke or not renew a charter.

b. All school districts. Charter school administrators are now considered "Public Officials" subject to the Ethics Act. Charter school administrators may not receive compensation from another charter school or management company. School districts may not unilaterally place enrollment caps on charter schools. Any enrollment cap must be in the written charter. Finally, school districts will be eligible for transportation payments for transporting students within the district rather than just outside the district. The rate will be \$385 per student.

11. **Sale of Buildings.** Commonwealth Partnership Districts, such as the School District of Pittsburgh, are now permitted to sell unused and unnecessary buildings at a negotiated sale without court approval if the building is over twenty-five (25) years old, and the district has an affidavit of

value from three (3) appraisers. The district may also enter into an agreements with an Urban Redevelopment Authority to facilitate sale of buldings.

12. **Education Empowerment Districts.** Minor changes were made to Section 1705-B(h)(4) by applying this paragraph to all fiscal years from the 2001-2002 fiscal year through the 2008-2009 fiscal year. Additionally, the expiration date for this section has been amended to expire on June 30, 2009.

13. **Mandate Waiver Program.** Changes include a PDE requirement to establish a task force to investigate the impact that mandate waivers may have on taxpayers school construction projects. The task force is to collect, examine and analyze data from completed school construction projects financed with state funds to determine whether the Department's authority to waive current legal mandates regarding separate, prime contracts for school construction projects results in taxpayer savings. Members of the task force, made up from several legislative committees and department chairs, shall present their findings to the General Assembly and the Governor within six months of the effective date of this section.

14. **Reimbursement of Payments (Community Colleges).** Amendments under Section 1913-A allow for public and private funds to be distributed to community colleges under an economic development stipend. The stipend is modified to distribute funds base on the actual numbers of students enrolled in high-priority and high-instructional-cost occupation programs and noncredit workforce development courses.

15. **Disruptive Student Programs.**

a. The definition of "Applicant" under 1901-C has been amended to include a charter school that provides an alternative education program within or to a chartering school district or districts as the central mission of its charter.

b. 1902-C was amended to include new subsection (9) indicating the need for an application to contain written support for the application from the chartering school district when the applicant is a charter school, as defined above.

16. **Educational Improvement Tax Credit.**

a. Section 2002-B: the definition of the term "Business Firm" now includes "pass-through entity." A "Pass-Through Entity" has been defined as a partnership as defined in 72 P.S. Sec. 7301 (n.0) (Tax Reform Code of 1971) or a Pennsylvania S-Corporation as defined in 72 P.S. Sec. 7301 (n.1).

b. Section 2005-B: the maximum tax credit allowed for contributions to a scholarship organization or educational improvement organization has been raised from \$200,000 to \$300,000, excluding pre-kindergarten scholarship organizations, which is now \$150,000. Additionally, any pass through entity not using the entire amount of tax credit may elect, in writing, to transfer all or a portion of the credit to shareholders in proportion to such shareholder's interest.

c. Section 2006-B: limitation on the ability of a pass through tax credit as described in 2005-B to exceed the tax liability of a pass through shareholder.

17. **Funding for Public Libraries.** New Section 2317 has been added to the Public School Code to allow libraries receiving state aid in FY 2007-2008 that comply with the standards in the library code and regulations under Section 2316 to be eligible for aid in FY 2008-2009.

18. **Reimbursements by Commonwealth and Between School Districts.**

a. Section 2501: amendment allows the Secretary of Education to establish the computation method for "Average Daily Membership" based on certain levels of instruction for half-time pre-kindergarten and half-time kindergarten, and full-time pre-kindergarten, full-time kindergarten, elementary and secondary. Furthermore, the definitional section is amended to include definitions for "Actual Spending," "Funding Year," "Index," "Location Cost Metric," and "Modified Average Daily Membership."

b. Section 2502.48: the base cost per student will be computed by using the 2007-2008 base cost (\$8,003), increased by the 2008-2009 index. Furthermore, PDE will determine an "adequacy target" and a "state funding target" for each school district. The computations for those targets are set out in the amendments. Allocations for these payments are based on the base cost with adjustments for poverty, school district size, geographic costs and English language learners. No district will receive an increase of less than three percent (3%).

c. Section 2502.49: a distribution guide for funds disbursed to a school district that exceed the amount of basic education funding allocated to the school district in the prior fiscal year by more than the index figure. One-hundred percent (100%) of funds received in excess of the index must be distributed according to the schedules set forth in this section (additions or expansions of curricula, training of employees, reduction of class size, incentives for exceptional teacher services, school library services, etc.). For those districts subject to this section, said districts must submit a plan to PDE detailing the intended use of funds in the subsequent fiscal year. All plans must be submitted and re-submitted until approved by PDE.

d. Section 2509.1: new subsection (b.16) has been added to include up to eleven million five hundred thousand dollars (\$11,500,000) for programs administered and operated by IUs during the 2008-2009 school year for institutionalized children.

e. Section 2509.5: new subsection (zz) continues payments received by school districts that were received in the 2007-2008 school year. This amendment mirrors previous amendments to this section.

f. Section 2591.1: school districts will be reimbursed for their FY 2007-2008 charter school and/or cyber school payments. Districts will receive reimbursement up to 30% of their FY 2007-2008 charter/cyber payments, except in limited circumstances, where such payment may increase to 41.96% of such payments.

g. Section 2599.2: two amendments, subsections (b) and (f), allow for the expenditure of funds on the following: establishing or expanding a career awareness program and purchasing materials or extending service hours of school libraries. There is an additional provision to continue payments of an accountability grant to each school district equal to the amount paid during the 2007-2008 school year. Furthermore, new definitions for "career awareness program," "career days," and "job shadowing" are established.

7/15/08