

PSBA SPECIAL REPORT

School District Mandates: Their Impact on Public Education





Founded in 1895, PSBA is the voice for public education and works for strong local school boards in the halls of the Capitol. The association is committed to supporting an effective child-centered public education that is adequately and equitably funded.

In October 2014, school directors voting at PSBA's Delegate Assembly selected four legislative priorities for the 2015-16 session of the General Assembly. This paper provides an in-depth discussion on the priority issue of mandate reform.



A PSBA Special Report

School District Mandates: Their Impact on Public Education

TABLE OF CONTENTS

Introduction	1
Policy Discussion.....	3
Paying for the Most Costly Mandates	7
The Mandates	11
Budget/Act 1/Taxing	11
School Construction	13
Comprehensive Planning Requirements	14
Reporting Requirements	14
School Operations and Governance.....	16
Transportation	20
Education & Instructional Programs.....	20
Standards, Testing & Assessment	22
Federal Accountability Under PA's NCLB Waiver.....	25
Special Education	27
Special Education for Gifted Students	28
Personnel Issues.....	28
School Safety.....	32
Health & Wellness	34
Charter Schools	36
PSBA Mandate Relief Recommendations	39
Conclusion	50





INTRODUCTION

The need for mandate relief

The Pennsylvania School Boards Association (PSBA) is pleased to present this special report on school district mandates and their impact on the continually rising cost of public education.

PSBA believes that mandate relief is an integral part of reforming the system of funding public education. While not as popular as increasing state funding or local tax reform, relief from burdensome mandate requirements can help save school districts and taxpayers money and result in more efficient operation.


Pennsylvania school districts are required to comply with hundreds, if not thousands, of mandates that have the effect of determining what school districts are required to do, how they must do it and, ultimately, how much will be spent in order to get it done. Mandates can also negatively impact local decision-making because they either dictate in considerable detail the actions to be taken or severely limit available options.

Mandates come from a number of sources. The federal government imposes some, but most mandates come from state laws, regulations and other types of guidance from state governmental agencies.

Although the state imposes many of these mandates, the state only sometimes contributes toward the cost of complying with them. Those contributions typically do not keep pace with escalating costs and in many cases state funding has completely disappeared, leaving local school districts to assume an ever-increasing share of the costs required to comply with the mandates.

These unfunded and underfunded mandates represent a drain on school district budgets pulling resources away from educating students and resulting in academic program reductions or elimination, staff reductions, larger class sizes, loss of extracurricular programs, and a host of other

The challenges associated with meeting the needs of a group of students as diverse as the commonwealth itself are, and will continue to be, significant.



unwelcome consequences. With the economic challenges facing school districts, meaningful relief from the mandates that will likely consume much of their budgets is needed.

To ensure that students are receiving the education they deserve and taxpayer money is being spent as efficiently as possible, school districts need the flexibility and broad discretion to suspend costly mandates that direct money away from our classrooms and valuable educational programs and drive up the cost of operation. Additionally, those mandates that provide no educational value to students and do nothing to promote student achievement, transparency or efficiency should simply be repealed.

PSBA understands that many mandates are necessary and cannot be eliminated; PSBA is not advocating for the removal of all mandates. However, the combined effect of all mandates can become a costly and time-consuming burden of complying with deadlines, filing reports and paperwork, implementing additional programs and providing additional benefits, rather than operating a system of education that is truly thorough, efficient and logical.

If state policymakers are serious about helping school districts reduce costs, they must agree to fund the mandates deemed essential, while permitting districts some leeway to discontinue unfunded mandates or outdated programs. Such action by the legislature would ensure that available dollars for school districts are spent in those areas that the legislature and governor believe to be in the best interest of students and taxpayers.

School officials can advocate for mandate relief by talking to their legislators, helping them understand the number of unfunded or underfunded mandates imposed on their school districts and the impact of those mandates on their budgets. Although the list of mandates in this report is not exhaustive, the mandates highlighted represent many of the greatest challenges to school districts in terms of financial burden and required staff time. Legislative changes to eliminate or reduce these significant mandates would have a substantial impact on school expenses while allowing schools to direct more funds toward instruction and would give districts increased flexibility on how to use available revenues toward providing an excellent education to their students.

PSBA wishes to acknowledge and thank Dr. Jill M. Hackman, Executive Director, Berks County Intermediate Unit, for her consultation and support for this project.



POLICY DISCUSSION

The increasing burden and cost of mandates on school districts

Public education is easily among the most regulated activities of government, and rightfully so.

What could be more important than educating future generations? But, due to the many different roles a school district plays, they are often impacted by mandates unrelated to education. School districts play the part of employer, public agency, taxing authority, vehicle fleet owner/operator, contractor and more, all while simultaneously attempting to operate the best local education system possible. When a mandate affects employers or construction projects in general, the impact on school districts can go unnoticed by policymakers and the public even when it has a substantial impact locally.

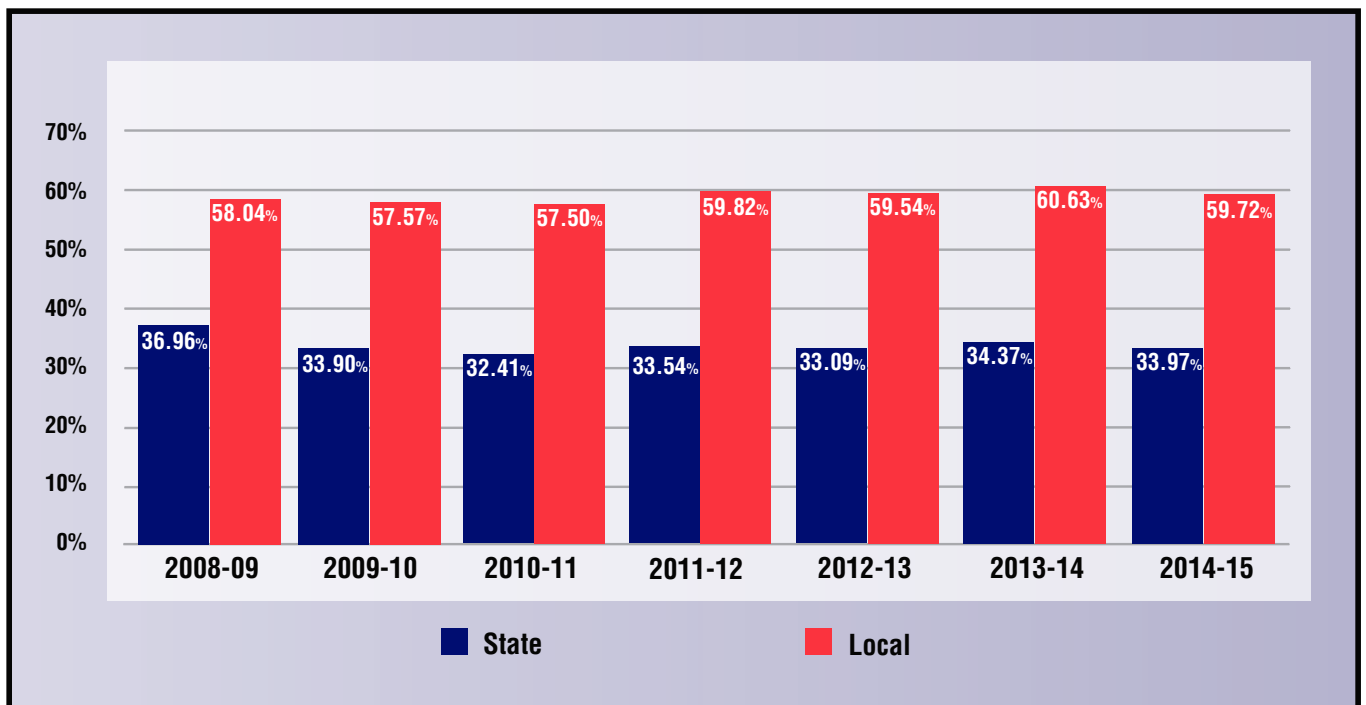
Considered separately, many mandates can be defended as sincere efforts to enhance the quality of education, student achievement, health, safety and wellness, accountability, transparency and the efficient expenditure of taxpayer money. Their combined effect, however, can develop into an unwieldy and burdensome task of complying with deadlines, reporting, recordkeeping and paperwork requirements, implementing new programs and providing additional benefits rather than operating a system of education that is truly thorough and efficient, and which best meets local needs.

Different types of mandates can have different effects on school districts. In most cases, the result is the imposition of a new duty or responsibility that school districts did not have previously. While all school districts face the financial consequences imposed by mandates, not all districts are equally affected in every case. The size of a school district, the type of student population served, the projects in which it is involved (e.g., construc-

tion) and even the location of a district (urban, rural, suburban) are just examples of the types of characteristics that influence how any particular mandate will affect a district.

Funds to pay for expenses associated with mandates come primarily from local sources, such as property taxes, as well as an annual state allocation. While the cost for school districts to meet these demands increases each year, the state's allocation has failed to keep pace. In 2008-09, the state allocation represented 37% of the total revenue coming in to school districts, 58% was from local sources.¹ In 2014-15, the last year for which full, statewide data are available, the state allocation represented only 34% of the total revenue coming into school districts while 60% was from local sources.²

Figure 1
Comparison of State and Local Revenue Percentages 2008-2015
(Federal and Other Revenue Not Shown)



¹ The percentage of funding from federal and other sources in 2008-09 equaled 5.0%. Using data from PDE annual financial reports on state, local, federal and other revenue. PDE annual financial reports for state and local revenue available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx> Accessed 6/6/16

² The percentage of funding from federal and other sources in 2014-15 equaled 6.3%. Using data from PDE annual financial reports on state, local, federal and other revenue. PDE annual financial reports for state and local revenue available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx> Accessed 6/6/16

Managing public schools in the current financial times is difficult enough. School districts have shown their ability to stretch already thin budgets in response to a nine-month budget impasse and scores of new unfunded mandates. However, as state policymakers add new mandates which challenge school districts to do more with less state funding, the frustration felt by local school districts and their taxpayers is very real because districts are left with limited options to pay for them, such as local tax increases and/or educational program cuts.





Paying for the most costly mandates

While some mandates impose only minimal costs, others are major cost drivers with a critical impact on district budgets. Currently, two of the most significant mandated cost drivers are employer pension contributions and tuition payments to charter and cyber charter schools.

Pension contributions

As participants in the Public School Employees' Retirement System (PSERS), school districts are required to make contributions, which are an actuarially calculated percentage of district payroll, to help fund the system.³ These contributions continue to rise at unprecedented rates. According to PSERS, employer contributions increased from \$2.1 billion in 2013-14 to \$2.7 billion in 2014-15 due to the increase in the total employer contribution rate from 16.93% in 2013-14 to 21.40% in 2014-15⁴. The contribution rate for 2016-17 is set at 30.03% (resulting in an estimated \$4.1 billion in employer contributions)⁵, and will continue to climb over the next several years, projecting to peak at 34.20% in 2019-20 and remaining above 33% through 2026-27.⁶ All of this translates into millions of dollars that must be included in each school district's budget every year to cover mandated pension obligations.

As required pension contributions have risen, so too has the amount of each school district's budget dedicated to paying them. Figure 2 shows how the costs of pension obligations have grown to consume a larger portion of school district budgets from 2008-09 to 2014-15.

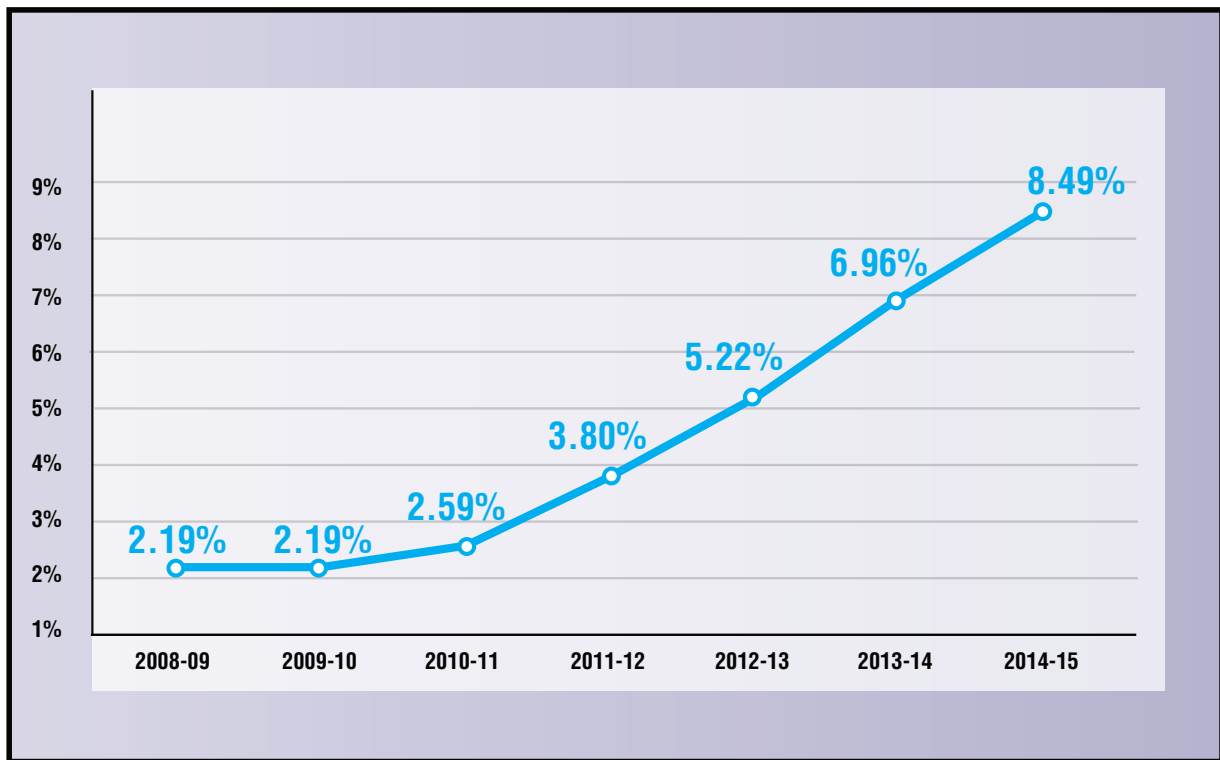
³ 24 Pa. C.S.A. § 8327.

⁴ Pennsylvania Public School Employees' Retirement System Comprehensive Annual Financial Report Fiscal Year ended June 30, 2015, Page 29. Available <http://www.psers.state.pa.us/publications/general/cafr.htm>. Accessed 4/8/16.

⁵ Fiscal Year 2016/2017 Employer Contribution Rate Fact Sheet (Updated on December 8, 2015). Available <http://www.psers.state.pa.us/pfr/pfr.htm>. Accessed 4/8/16.

⁶ Current Employer Contribution Rate and Rate Projections. (Updated on December 8, 2015). Available <http://www.psers.state.pa.us/pfr/pfr.htm>. Accessed 4/8/16.

Figure 2
The Percentage of School District Expenditures Going to Retirement Contributions



Charter/Cyber Charter School Tuition

The Charter School Law requires a student's school district of residence to make tuition payments to a charter school or cyber charter school for each student enrolled in the charter/cyber charter school.⁷ The per student payment amount is calculated based on a formula in the law and the payment amount varies by school district based on the district of residence's budgeted expenditures (for regular and special education). Since the formula looks only at the district of residence's expenses and not those of the charter/cyber charter to provide an educational program, the formula results in districts paying different amounts (and potentially overpaying) for students attending the same charter or cyber charter school and receiving the same education.

Payments to charter and cyber charter schools have risen more than 17% since the 2012-13 school year to more than 1.48 billion in 2014-15.⁸ Of that, roughly \$436 million went to the 14 cyber charter schools operating in Pennsylvania.⁹ The average school district spent over \$2.9 million on charter

⁷ 24 P.S. § 17-1725-A

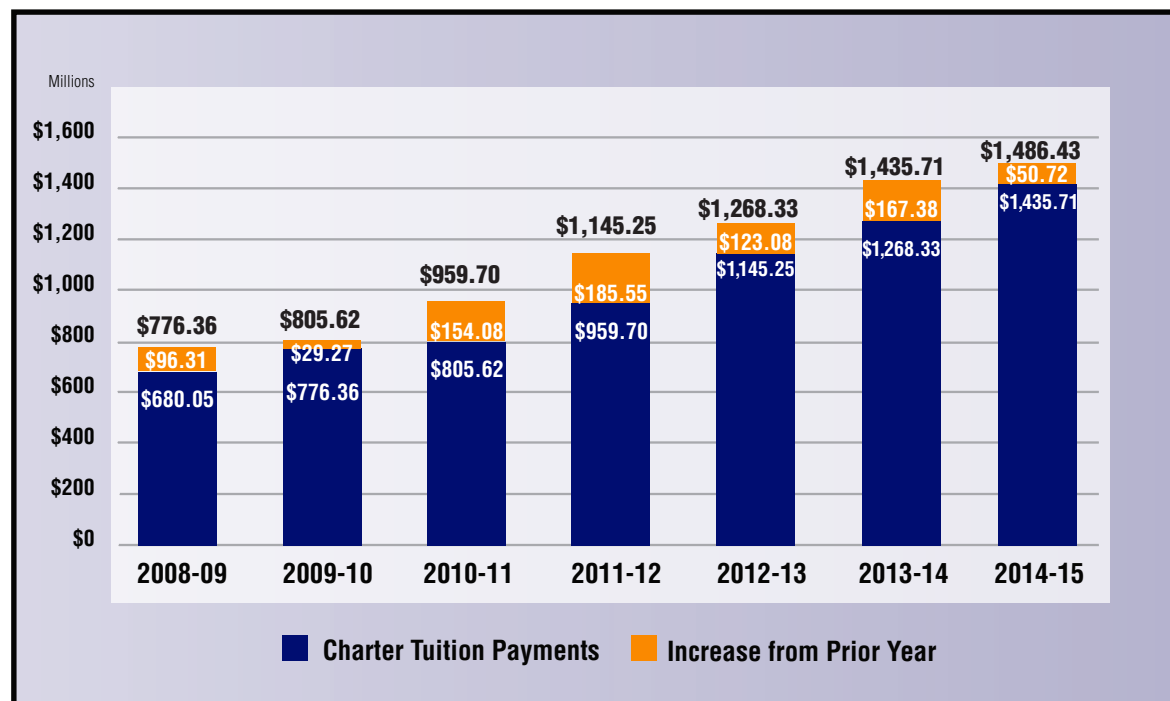
⁸ State AFR Data: Detailed, Expenditures, Tuition Schedule. Available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

⁹ Calculated by taking the October 1, 2014 enrollment data available: <http://www.education.pa.gov/K-12/Charter%20Schools/Pages/Annual-Reports,-Data-and-Resources.aspx#> and multiplying cyber enrollments by the charter school tuition rates for each school district available: <http://www.education.pa.gov/K-12/Charter%20Schools/Pages/Charter-School-Funding.aspx#>

and cyber charter school tuition with a median of \$663,931 and 147 school districts paid tuition payments over \$1 million.¹⁰

The steady rise in required charter school payments have taken precious resources away from other school district programs and services. Figure 3 shows the rise in charter school costs from 2008-09 to 2014-15.

Figure 3
The Growth of Mandated Payments to Charter Schools from School Districts



Beyond Pensions and Charter Schools

Almost 14 cents of every dollar spent by school districts in 2014-2015 was dedicated to pension obligations and charter school payments.¹¹ Beyond budgeting for pension and charter school costs, school districts must also consider the cumulative effect that scores of other mandates will have on their budgets.

While the state contributes at least 50% to a school district's pension obligations, the state reimbursement for charter school payments ended in 2010-11, leaving school districts to pay the entire bill. With school districts unable to rely on the state to fund (partially or completely) the mandates placed upon them, school districts are forced to turn to their limited local

¹⁰ State AFR Data: Detailed, Expenditures, Tuition Schedule. Available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

¹¹ Calculated by adding total school district retirement contributions and total tuition payments made to charter schools (special and nonspecial) and dividing by the total school district expenses. All data from PDE detailed Annual Financial Report data available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#>

tax options to keep up with these increasing costs. Primary among these options is the local property tax.¹² In 2014-15, local property taxes represented over 77% of all locally generated revenue.¹³ However, the property taxation restrictions placed on school districts by Act 1 of 2006 and Act 25 of 2011 made funding mandates via property tax even more difficult by annually capping property tax increases unless a limited exception is approved by the Pennsylvania Department of Education (PDE) or school district voters.¹⁴ For the 2016-17 school year, PDE approved requests from 179 school districts for an exception to the Act 1 tax increase limits.¹⁵

While increased funding to pay for mandates is a key component of addressing this issue, the point of this report is to highlight the need to reduce the number of unneeded or outdated mandates placed on public schools, which will help schools reduce costs and cut down on local taxes.

¹² Other local taxing options include, but are not limited to: earned income, per capita, occupational privilege, business gross receipts, amusement, and realty transfer taxes.

¹³ PDE annual financial reports for local revenue available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx> Accessed 6/6/16

¹⁴ See generally 53 P.S. §§ 6926.331-6926.335.

¹⁵ Report of Referendum Exceptions for School Year 2016-2017 April 2016 available: <http://www.education.pa.gov/Teachers%20-%20Administrators/Property%20Tax%20Relief/Pages/Referendum-Exceptions.aspx#>



The mandates

The following is a comprehensive listing of many of the current mandates that school districts must comply with under state and federal laws and regulations. A brief description of the mandate is provided, along with a description of some of the cost and staffing considerations attached to it.

PSBA emphasizes that this is not, nor is it intended to be, a complete listing of all mandates applicable to school districts. Rather, this listing is provided to help legislators and the public better understand the wide range of requirements that districts face, and to emphasize the need for relief and adequate funding.

Budget/Act 1/Taxing

Budget adoption timelines and requirements: School districts must adopt preliminary budgets, including estimated revenues/expenses and proposed tax rates, no later than 90 days prior to the election immediately preceding the fiscal year in which the preliminary budget will take effect.¹⁶ In lieu of a preliminary budget process, school districts have the option of adopting a resolution indicating that the rate of any tax will not be raised by more than its index.¹⁷ Calculated annually by PDE, the index is the average of the percentage increase in the statewide average weekly wage and the employment cost index.¹⁸ The resolution must be adopted no later than 110 days prior to the primary election.¹⁹

Back-end referendum/voter approval of increase: School districts that want to raise taxes by more than the index must have the increase approved by voters. School districts must submit the referendum question to county election officials no later than 60 days prior to the primary election.²⁰

¹⁶ 53 P.S. § 6926.311(a), (b)

¹⁷ 53 P.S. § 6926.311(d)(1)

¹⁸ 53 P.S. § 6926.301

¹⁹ 53 P.S. § 6926.311(d)(1)

²⁰ 53 P.S. § 6926.333(c)

Seeking an exception to the back-end referendum requirement:

School districts must publish notice of their intent to seek PDE approval of an exception in a newspaper of general circulation and on the district's website. Exceptions to the referendum requirements are limited to: grandfathered and electoral debt for school construction, special education expenditures, and retirement contributions. If the request for an exception is approved, PDE will determine the dollar amount of the expenditure for which the exception is sought and the tax rate increase required to fund the exception. If PDE denies the request, the school district must reduce the tax rate increase to no more than its index or submit a referendum question for voter approval in the next primary election (for school districts with a July 1 through June 30 fiscal year).²¹

Homestead/farmstead exclusion notification: School districts must annually notify, by first-class mail, residential property owners of the homestead/farmstead exclusions that may be available and the application process. The notice must be provided at least 60 days prior to the application deadline. (A homestead exclusion lowers property taxes by reducing the assessed value of the home. A farmstead exclusion provides property tax relief to farmers.)²²

Itemization of exclusions: School districts are required to itemize homestead/farmstead exclusions on tax bills sent to property owners.²³

Interest penalties for late payment of bills: Political subdivisions, which include school districts, must pay interest penalties to qualified small businesses for goods and services when payments are more than 30 days past due if the existing contract language does not specify a payment schedule.²⁴

Installment payment: School districts are required to provide an installment payment option for property taxes.²⁵

Commission for collection of delinquent property taxes: If a school district collects their own delinquent real estate taxes or utilizes the services of a third-party to do so (as authorized by law),²⁶ school districts are required to pay the county a 5% commission to cover the county's expense in operating the county tax claims bureau.²⁷

²¹ 53 P.S. § 6926.333(j)

²² 53 P.S. § 6926.341(b)

²³ 53 P.S. § 6926.343(a)

²⁴ 72 P.S. §§ 1603-C, 1604-C

²⁵ 53 P.S. § 6926.1502(b)

²⁶ 53 P.S. § 7147

²⁷ 72 P.S. § 5860.207

Countywide earned income tax collection: School districts are required to participate in a tax collection district for purposes of collecting earned income taxes on a countywide basis.²⁸ All expenses for operating the tax collection district must be shared by all political subdivisions within the district.²⁹

Tax exemption of property owned by charitable organizations: Real estate owned by an institution of purely public charity is exempt from taxation by school districts.³⁰

Audits: Districts are required to have their finances audited annually by an independent auditor.³¹ The auditor is authorized to have access to most school records and to require school officials to answer questions and produce records. The state auditor general examines the records of school districts establish whether they received the subsidies and reimbursements they were entitled, and whether state laws and regulations were followed.³² They also determine whether teachers and administrators are properly certified for the positions they hold.

School Construction

School districts are required to comply with all federal and state laws regarding construction and renovation, purchase of supplies, maintenance. Some of these requirements include:

PlanCon requirements: School districts are required to use PDE's Planning and Construction Workbook (PlanCon) process in order to apply for state reimbursement for a share of approved construction costs. The process contains 11 steps (Parts A-K) that require completion and PDE approval at each step.³³

Prevailing Wage Act requirements: The law requires school districts, along with other public bodies, to pay state-mandated wage rates for workers on construction or renovation projects where estimates exceed \$25,000.³⁴

Separations Act requirements: Under the currently mandated multiple prime contractor system, school districts must bid separately for each

²⁸ 53 P.S. § 6924.504(a)

²⁹ 53 P.S. § 6924.505(l)(2)

³⁰ Pa Const. Art. VIII § 2(a)(v), 10 P.S. § 371 *et seq*

³¹ 24 P.S. §§ 437, 2401

³² 72 P.S. § 403

³³ The legal requirements relating to PlanCon can be found in Articles VII and XXV of the Public School Code. The school code requires school districts to obtain PDE approval before entering into contracts for construction projects and before receiving state reimbursement for that project. 24 P.S. § 7-731 and 24 P.S. § 25-2574.

³⁴ 43 P.S. § 165.1 *et seq.*


component of a school construction project, such as general construction, plumbing, HVAC, and electrical.³⁵

Comprehensive Planning Requirements

State regulation establishes specific planning requirements for school entities.³⁶ Schools are required to use PDE's six-part Comprehensive Planning (CP) process to meet the requirements. Each component of the process is required to be available for public inspection and comment at least 28 days prior to school board approval. Comprehensive planning components include:³⁷

- Every three years, a school entity must submit to PDE for approval a professional education plan for educators.
- Every six years, a school entity must submit to PDE for approval an induction plan for first-year educators.
- Every six years, a school entity must develop and implement a comprehensive and integrated K-12 program of student services.
- Every three years, each school district must develop and submit to PDE a special education plan.
- Every six years, each school district must develop and implement a gifted education plan.
- Every three years or when the plan is amended, a school district offering a prekindergarten program must submit an implementation plan.

The PIMS system
calls for numerous
category submissions,
containing hundreds of
unique data elements.



Reporting Requirements

The Pennsylvania Information Management System (PIMS) is PDE's state-wide, longitudinal data system that is used to meet current state and federal reporting requirements regarding the state's pre-K through grade 12 public education system. PIMS also provides longitudinal tracking of education progress over time and across schools. Schools must meet numerous reporting requirements and updates throughout the year using specific templates developed by PDE for the PIMS system. The PIMS system calls for numerous category submissions, containing hundreds of unique data elements.

The reporting requirements for school districts include:

- **School calendar** – School districts must enter various pieces of information regarding their school calendar, start and end dates, graduation date, number of scheduled school days and instructional minutes, instructional days lost to approved professional development, strike information, days lost to weather emergencies, etc.

³⁵ 24 P.S. § 7-751(a.2)

³⁶ 22 Pa. Code § 4.13

³⁷ 22 Pa. Code §§ 4.13, 4.20(10)

- **Student information, updates & internal snapshots** – School districts must provide various pieces of information regarding all of their students, pre-K to grade 12. Data elements to be included: gender, race/ethnicity, special education, gifted education, limited English proficiency and English language learner, economically disadvantaged, charter school and career and technical center enrollments, homebound instruction, private tutoring, etc.
- **Graduation/dropouts** – School districts are required to report graduation and drop-out data to PDE.³⁸
- **Race/ethnicity** – The U.S. Department of Education requires states and schools to maintain, collect, and report data on race and ethnicity. Original records must be maintained for three years. However, when there is litigation, a claim, an audit, or another action involving the records, original responses must be retained until the completion of the action.
- **Annual financial reports** – School districts are required to annual financial reports no later than Oct. 31 in the form and manner prescribed by PDE or suffer financial penalties.³⁹
- **Other federal reporting required** – Other reports required by the U.S. Department of Education include data on homeless/unaccompanied students (McKinney Vento Act) and under the former ESEA Act are requirements for Title I staff and student participation, Title III nonpublic student count, Title III professional development activities survey, and a Limited English Proficiency program survey.
- **Pennsylvania Technology Inventory (PATI)** – School districts must provide technology-related data through a variety of surveys that comprise the Pennsylvania Technology Inventory (PATI). PATI is used for required federal and state technology reporting.
- **Personnel** – Records must be created for all certificated and non-certificated personnel and include the average years of educational experience within the school district. This includes all personnel who are subcontracted to provide services to public school students, including personnel from an agreement with a private vendor or an institution of higher education who work on behalf of the district. Other reports must be filed for support personnel (e.g., instructional aides, library/media support staff, and others).
- **Programs/courses** – Records must be created for all core-content courses taught from pre-K to grade 12. Core-content courses generally include math, science, language arts, social studies, world languages and art. School districts also must provide information on AP and IB courses offered as well as dual-enrollment courses. In addition, the

³⁸ 24 P.S. § 2-222(a)(3)

³⁹ 24 P.S. § 2-218

School districts are subject to the state Right-to Know law which considers all records to be public unless limited exemptions apply.



district must identify the instructors of every course reported.

- **Assessment & School Performance Profile** - School districts must submit reports and updates for state assessments (PSSA, PASA and Keystone Exams) and other indicators of school and district performance including various data elements.
- **Special education** - Reports must be provided for special education students including student counts, student exits, and service costs per student, and report of federal ACCESS funding.
- **Career and technical education** - Reports must be provided related to career and technical education programs, career industry credentials and students to meet state and federal requirements.
- **Incidents on school property** - School districts must annually report incidents involving acts of violence, possession of a weapon, or the possession, use or sale of a controlled substance, alcohol, or tobacco by any person on school property, at school-sponsored events, and on school transportation to and from school.⁴⁰ Prior to submitting the annual report, the chief school administrator must also submit the report to the local police department to compare information on school incidents.⁴¹
- **Interscholastic athletic opportunities** - School districts are required to annually prepare an extensive report detailing the interscholastic athletic opportunities provided to students in grades 7-12 and athletic expenditures in the preceding year. Districts also must report all contributions and purchases for teams made by booster clubs and nonschool entities.⁴²

School Operations and Governance

Right-to-Know Law/open records: School districts are subject to the state Right-to Know law which considers all records to be public unless limited exemptions apply. Districts must comply with the law's requirements to appoint an open records officer to handle all records requests, respond to requests for records in accordance with established timeframes, and post all forms, fee schedules and contact information on the school district's website.⁴³

Sunshine Act/open meetings: School districts are subject to the state Sunshine Act which requires a quorum of school board members to be present at a meeting open to the public in order to take official action. Meetings must be open to the public unless limited exceptions apply. Notice of meeting dates, times and locations must also be provided to the public. Districts

⁴⁰ 24 P.S. § 13-1303-A(b)

⁴¹ 24 P.S. § 13-1303-A(b.1)

⁴² 24 P.S. § 16-1601-C *et seq.*

⁴³ 65 P.S. § 67.101 *et seq.*

must comply with the act's requirements to record the votes of each board member, take and keep minutes of each meeting, and include an opportunity for public comment on matters of concern at each meeting.⁴⁴

Legal advertising: School districts are required to publish notice (including the place, date and time of the meeting) of all open school board meetings, including committee meetings in a newspaper of general circulation designated by the board.⁴⁵ A newspaper of general circulation is a newspaper issued daily or not less than once a week intended for general distribution or circulation.⁴⁶ In addition, districts must advertise in newspapers when seeking to sell lands and buildings, close schools, or purchase furniture, equipment and supplies more than a specified amount.⁴⁷

Student records: School districts are required to adopt a plan for the collection, maintenance and dissemination of student records. The plan for student records must conform to applicable state and federal laws, regulations and directives identified in guidelines issued by PDE.⁴⁸ Federal laws and regulations contain numerous requirements regarding the confidentiality of student records.⁴⁹

Student searches: School districts are required to adopt reasonable policies and procedures regarding student searches. The school district must notify students and their parents of the rules. Prior to a locker search, students must be notified and given an opportunity to be present. However, when school authorities have a reasonable suspicion that the locker contains materials that pose a threat to the health, welfare or safety of students in the school, student lockers may be searched without prior warning.⁵⁰

Exclusions/Expulsions from school: School districts must follow specific requirements, timeframes and procedures regarding the exclusion/expulsion of students.⁵¹ Those requirements include parental notification, due process for hearings, time limits on suspensions, and timeframes for school action. In addition, exclusions affecting students with disabilities are governed by both state regulations as well as federal law and regulations regarding special education.⁵²

⁴⁴ 65 Pa. C.S.A. § 701 *et seq.*

⁴⁵ 65 Pa. C.S.A. §§ 703, 709

⁴⁶ 24 P.S. § 1-106(a), 45 Pa. C.S.A. § 101

⁴⁷ 24 P.S. §§ 7-707(1), 7-780, 8-807.1(a.2)

⁴⁸ 22 Pa. Code §§ 12.31, 12.32

⁴⁹ 20 U.S.C. § 1232g, 34 CFR Part 99, 34 CFR §§ 300.610-300.627

⁵⁰ 22 Pa. Code § 12.14

⁵¹ 24 P.S. § 13-1318, 22 Pa. Code §§ 12.6, 12.7, 12.8

⁵² 22 Pa. Code § 14.143, 20 U.S.C. § 1415(k), 34 CFR §§ 300.530, 300.536

District responsibility for expelled students: Expelled students under 17 are still subject to compulsory attendance laws and must be provided an education. Parents of expelled students have the initial responsibility to see that their child is receiving the required education and have 30 days to either provide evidence that the required education is being provided or inform the district that they are unable to provide for an education for their child. If the parents are unable to provide the required education, the district then has the responsibility to provide for the student's education within 10 days of the receipt of the notification. Students with disabilities must be provided educational services as required by federal law.⁵³

Student services: School districts are required to prepare a written plan for the implementation of a comprehensive and integrated K-12 program of student services based on the needs of their students that meets the requirements of state regulations. The plan must include policies and procedures for the administration of medication and treatment under guidelines of the state Department of Health as well as services from other categories such as developmental services, diagnostic, intervention and referral services, and consultation and coordination services.⁵⁴

Rules regarding student surveys: School districts must follow state and federal law and regulations regarding the participation of students in surveys. Depending on the survey (the source of the survey and the information sought), districts have different responsibilities and parents/students have different rights. Among those are parental consent for participation (if the survey reveals protected information), notifying parents of the right to inspect the survey, and the right to opt out of taking the survey.⁵⁵

Extracurricular activities for home-schooled students: School districts must allow home-schooled students to participate in extracurricular activities; however, home-schooled students must meet the same participation and try-out criteria as students in the district and must comply with all the district's policies regarding that activity.⁵⁶

Extracurricular activities for charter school students: School districts must allow charter school students to participate in any extracurricular activity provided that the student meets all requirements for participation and the charter school does not offer the same activity.⁵⁷ Districts may require the charter school to pay the cost of expenses associated with its student's participation.

⁵³ 22 Pa. Code § 12.6(e)

⁵⁴ 22 Pa. Code § 12.41

⁵⁵ 22 Pa. Code §§ 4.4(d)(5), 12.41(d), 20 U.S.C. § 1232h

⁵⁶ 24 P.S. § 13-1327.1(f.1)

⁵⁷ 24 P.S. § 17-1719-A(14)

Armed services recruiters: School districts must provide armed forces recruiters with the same access to lists of senior students that are made available to colleges and trade schools.⁵⁸

Pest control notification: School districts must post pest control signs in the areas of common access and provide information sheets to all individuals working in the building at least 72 hours before planned pesticide treatments. The district must also provide notification to parents and guardians of student at least 72 hours before treatment. School districts must maintain records of all pesticide treatments for three years and must ensure that students are not present in untreated parts of school buildings unless there are separate ventilation systems and fire doors separating the buildings.⁵⁹

Hazardous substance notification: School districts must comply with specific requirements for posting notices of hazardous substances in school facilities.⁶⁰

Supervision at social gatherings: School districts must comply with specific rules regarding the supervision of minors at a school-sponsored social gathering taking place in a liquor-licensed establishment. There must be at least one adult chaperone (25 years of age or older) for every 50 minors. No alcohol may be served and all alcohol must be removed or secured out of reach of the minors.⁶¹

Student use of internet: School districts are required by state and federal law to adopt policies regarding acceptable internet usage that are intended to limit/prevent minors from being able to access inappropriate material via school district computers/networks.⁶² Acceptable use policies must be provided to parents upon written request.⁶³

School buildings used as polling places: School districts must furnish suitable space in any public school building under its jurisdiction for use as a polling place on each day the space is desired by the county board of elections.⁶⁴

⁵⁸ 51 P.S. § 20222(a), 20 U.S.C. § 7908(a)

⁵⁹ 24 P.S. § 7-772.2

⁶⁰ 35 P.S. § 7307

⁶¹ 47 P.S. §§ 1-102, 4-493(14)

⁶² 24 P.S. § 4604(a), 20 U.S.C. § 6777(a)

⁶³ 24 P.S. § 4604(c)

⁶⁴ 25 P.S. § 2727(a)

When school districts provide students transportation to and from their public schools, they also must make identical provisions for the **free transportation of students** who regularly attend nonpublic elementary and high schools.



Students with disabilities participation in graduation ceremonies:

School districts are required to allow students with disabilities to participate in graduation ceremonies. Students whose IEP requires further instruction beyond the traditional four years of high school are entitled to participate in commencement ceremonies with the student's graduating class and receive a certificate of attendance regardless of whether the student has completed his/her IEP.⁶⁵

Transportation

Transportation of nonpublic school students: When school districts provide students transportation to and from their public schools, they also must make identical provisions for the free transportation of students who regularly attend nonpublic elementary and high schools. In addition, such transportation must be provided to nonpublic schools within a 10-mile radius of the school district boundaries, including when the nonpublic school is located out of state. Transportation must be provided on the days and times the nonpublic school is in regular session, regardless of whether the district is also in session.⁶⁶

Transportation of charter school students: While not required to provide transportation for their own students, school districts are required to provide transportation for students to and from charter schools. Transportation must be provided on days and times the charter school is in regular session, regardless of whether the district is also in session. The same distance requirements are established for charter school students as for other public school students regarding when transportation must be provided.⁶⁷

Education & Instructional Programs

Educating students with Limited English Proficiency (LEP) and English Language Learners (ELL): School districts are required to identify and provide planned programs of instruction and modifications in the delivery of content instruction for students with Limited English Proficiency (LEP), also known as English Language Learners (ELLs). The planned program must include annual assessments, grading, criteria for exiting the program and monitoring the students after they exit the program.⁶⁸

Communication with ELL parents: Communication with ELL parents must be in the parent's preferred language and mode of communication. It is the district's responsibility to provide for translation (written) and/or

⁶⁵ 24 P.S. § 16-1614(a)

⁶⁶ 24 P.S. § 13-1361(1)

⁶⁷ 24 P.S. § 17-1726-A(a)

⁶⁸ 22 Pa. Code § 4.26, 20 U.S.C. § 6801 *et seq.*, 34 CFR Part 200

interpretation (oral) services. In order to do this, districts must determine the preferred mode of communication of the parent and develop a plan for translation and interpreter services.⁶⁹

Staffing requirements for ELL students: All teachers in language instructional programs must hold the certification and endorsements required by PDE. Bilingual teachers teaching in a bilingual program of instruction must demonstrate academic language proficiency both in English and in the language used for instruction in their classroom.⁷⁰

Professional development requirements for ELL teachers: School districts with ELL students enrolled must offer staff development related to ESL for all personnel.⁷¹

Foreign languages: School districts are required to provide instruction in at least two foreign languages; at least one of them must be offered in a minimum four-year sequence in the secondary program. (However, students are not required to take a foreign language course as a graduation requirement.)⁷²

Physical education: School districts are required to establish a curriculum aligned with PA academic standards on health, safety and physical education requiring students to participate in physical education.⁷³

Physiology and hygiene: School districts are required to provide instruction in physiology and hygiene, which includes the study of nutrition and obesity, in health education courses.⁷⁴

Drug education/In-service education: School districts are required to provide alcohol, chemical and tobacco abuse education every year in every grade from kindergarten through grade 12. Districts must provide, as part of their in-service training, programs on alcohol, drugs, tobacco and dangerous controlled substances for all instructors whose teaching responsibilities include courses of study in which mandated instruction concerning alcohol, chemical and tobacco abuse is integrated.⁷⁵

⁶⁹ Basic Education Circular Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL) April 14, 2009

⁷⁰ Basic Education Circular Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL) April 14, 2009

⁷¹ Basic Education Circular Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL) April 14, 2009

⁷² 22 Pa. Code § 4.25(a)

⁷³ 24 P.S. § 15-1512.1, 22 Pa. Code § 4.27

⁷⁴ 24 P.S. § 15-1513

⁷⁵ 24 P.S. § 15-1547(a), (e)

HIV/AIDS and other life-threatening and communicable diseases:

School districts are required to provide instruction regarding prevention of human immunodeficiency virus (HIV) infection/acquired immunodeficiency syndrome (AIDS) and other life-threatening and communicable diseases for primary, intermediate, middle school and high school education.⁷⁶

Alternative education programs: School districts and private alternative educational institutions are required to adopt a policy which requires the review of students placed in alternative education programs to determine whether the student is ready to return to the regular instructional program. This review must occur at least at the end of each semester.⁷⁷

Services for homeless youth: Federal law requires states and schools to follow specific rules to ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children.⁷⁸

Services to students in correctional facilities: School districts are required to offer educational services to persons under 21 who are confined to local correctional institutions following a conviction or charge for a criminal offense.⁷⁹

Standards, Testing & Assessment

The Pennsylvania state assessment system is composed of assessments and the reporting associated with the results of those assessments. Many of the requirements were established to comply with the federal No Child Left Behind Act of 2001 and changes to NCLB mandates through Pennsylvania's waiver that was granted in 2013. Additional changes will be made to comply with the Every Student Succeeds Act (ESSA), which was signed into law on Dec. 10, 2015, by President Obama. The ESSA replaces the NCLB; all waivers granted to states by the U.S. Department of Education (ED) expire on Aug. 1, 2016. The ED will be issuing guidance regarding the transition to and implementation of the new ESSA.

Under the previous NCLB and the current ESSA, each state must measure every child's progress in reading/language arts and math in each of grades 3 through 8 and at least once during grades 10 through 12. Science testing is assessed at least once during grade spans 3-5, 6-9 and 10-12. ESSA encourages the development of performance-based assessments through the

Each state must
measure every child's
progress in reading/
language arts and
math in each of grades
3 through 8 and at
least once during
grades 10 through 12.

⁷⁶ 22 Pa. Code § 4.29(a)

⁷⁷ 24 P.S. § 19-1901-C(1)

⁷⁸ 42 U.S.C. § 11431 *et seq.*

⁷⁹ 24 P.S. § 13-1306.2

use of multiple measures, and may include portfolios and projects.⁸⁰

Pennsylvania's academic standards, state and local assessment systems and high school graduation requirements are established through regulations of the Pennsylvania State Board of Education.

Academic Standards & Pennsylvania Core Standards: The State Board of Education adopted academic standards in 12 subject areas. The academic standards are benchmark measures that define what students should know and be able to do at specified grade levels beginning in grade 3.⁸¹ The standards are promulgated as state regulations. As such, they must be used as the basis for curriculum and instruction in Pennsylvania's public schools. The academic standards content areas are: Arts and Humanities; Career Education and Work; Civics and Government; Economics; Family and Consumer Sciences; Environment and Ecology; Geography; Health, Safety and Physical Education; History; and Science and Technology.⁸²

In addition to the 10 standards listed above, the board adopted the Pennsylvania Core Standards for English language arts and mathematics are based upon components of the Common Core standards. This also includes Common Core Standards in Reading and Writing in Science and Technology (as an appendix to the state standards for science and technology), and Reading and Writing in History and Social Studies (as an appendix to the state standards for history).⁸³

Pennsylvania System of School Assessment (PSSA): This state assessment system puts Pennsylvania into compliance with the federal testing mandates.⁸⁴ It includes assessments in English Language Arts and Mathematics, which are taken by students in grades 3-8. Students in grades 4 and 8 are administered the Science PSSA.⁸⁵

Pennsylvania Alternate System of Assessment (PASA): This is a statewide alternate assessment designed for students with the most significant cognitive disabilities. Specifically, it is intended for those who are unable to participate meaningfully in the Pennsylvania System of School Assessment (PSSA) even with accommodations. By administering the PASA to students with severe disabilities, schools achieve compliance with federal laws and the Pennsylvania School Code that require that all students participate in the statewide accountability system.⁸⁶

⁸⁰ 20 U.S.C. § 6311(b)(2)(B)

⁸¹ 22 Pa. Code § 4.3

⁸² 22 Pa. Code § 4.12

⁸³ 22 Pa. Code § 4.12

⁸⁴ 20 U.S.C. § 6311(b)

⁸⁵ 22 Pa. Code § 4.51a

⁸⁶ 22 Pa. Code § 4.51(l)

Keystone Exams/High school graduation requirements: The Keystone Exams in Algebra I, Literature and Biology were to be used for two purposes. The first is for accountability as required by federal law.⁸⁷ The second is as a state graduation requirement that was to take effect beginning with the Class of 2017.⁸⁸ The graduation requirement also included these mandates:

- **Supplemental instruction:** Students who did not score proficient on a Keystone Exam must participate in supplemental instruction consistent with the student's educational program prior to re-taking the Keystone/module. Supplemental instruction must continue either until the student demonstrates proficiency in the subject area or until the student begins participating in a project-based assessment.⁸⁹
- **Project-based assessment:** Students not able to demonstrate proficiency on an exam or whose parents opted them out of taking a Keystone Exam will participate in a project-based assessment (PBA). Successful completion of the project will satisfy the requirements for graduation.⁹⁰

However, legislation to delay the use of Keystone Exams as a graduation requirement or as a benchmark for the need for participation in a project-based assessment until 2019 was passed by the General Assembly in January 2016 and became Act 1 of 2016. The new law requires PDE to investigate alternatives to the use of the Keystone Exams as a requirement for graduation and issue a report to of its findings and recommendations, including proposed legislation.⁹¹

Rules for superintendents that grant waivers: A chief school administrator must annually report to PDE the number of waivers granted and if considering granting waivers for more than 10% of students in the graduating class who were not successful in completing a project-based assessment, must submit an action plan for approval to PDE no later than 10 calendar days prior to graduation. (The 10% does not include the number of waivers to be granted for extenuating circumstances.) The plan must identify improvements that schools will implement to each course associated with the Keystone Exam content for which the waivers were requested.⁹²

Local assessment system: School districts also are required to design a local assessment system to determine the degree to which students are achieving the academic standards. Districts must provide assistance to students that are not proficient.⁹³

⁸⁷ 20 U.S.C. § 6311

⁸⁸ 22 Pa. Code § 4.24

⁸⁹ 22 Pa. Code § 4.51b(f)

⁹⁰ 22 Pa. Code § 4.51c

⁹¹ 24 P.S. § 1-121(b)

⁹² 22 Pa. Code § 4.51d

⁹³ 22 Pa. Code § 4.52(a)(1)

NAEP: School districts that are selected by the U.S. Department of Education are required to participate in the National Assessment of Educational Progress (NAEP) testing.⁹⁴

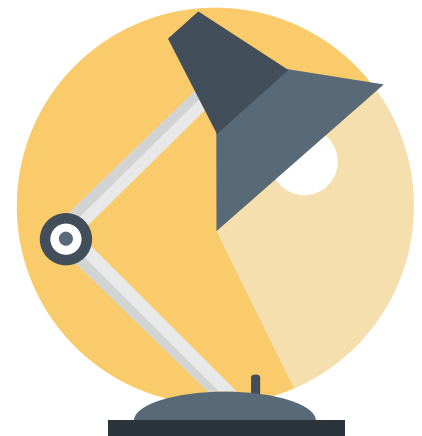
Federal Accountability Under PA's NCLB Waiver – 2013-Aug. 2016.

NOTE: These mandates will be replaced under new requirements to be established as part of Pennsylvania's implementation of the federal Every Student Succeeds Act that was signed into law by President Obama in December 2015 and replaces NCLB. They are presented here to show the mandates that districts have had to comply with. As this report is published, Pennsylvania's new state plan to implement ESSA has not been created or finalized.

The accountability system designates Title I schools only (those with a high percentage of low-income students) in one of three categories as Reward (with separate High Achievement and High Progress designations), Focus, and Priority. The new system calls for all Title I schools to be subject to four Annual Accountability Measures (AMOs) for either “all students” or “underperforming students” groups. The “all students” group is used for AMOs, 1, 2 and 3; it is defined as all students enrolled for a full academic year taking the PSSAs, PASA or Keystone Exams. The “underperforming students” group is defined in AMO 4. Here are the four AMOs:

- 1. Test Participation Rate** – To meet this AMO, the school must achieve 95% participation on the PSSAs and Keystone Exams.
- 2. Graduation Rate/Attendance Rate** – The school must achieve an 85% graduation rate (applied to four-, five- and six-year cohorts) or improvement from the previous year, OR, if no graduation rate is applicable, an attendance rate of 90% or improvement from the previous year.
- 3. Closing the Achievement Gap: All Students** – The achievement gap is determined by comparing the percent of students who are proficient or advanced in the 2012-13 baseline year with 100% proficiency. The benchmark for closing the achievement gap is that 50% of the gap will be closed over a six-year period.
- 4. Closing the Achievement Gap: Historically Underperforming Students** – Calculated the same way as for the “all students” group, this AMO applies to a non-duplicated count of students with disabilities, economically disadvantaged students, and English Language Learners enrolled for a full academic year taking the PSSA, Keystone Exams or PASA. If a student is in more than one of the individual groups (e.g., special education and English Language Learner) he/she is counted only once.

The new system calls for all Title I schools to be subject to four Annual Accountability Measures (AMOs) for either “all students” or “underperforming students” groups.



⁹⁴ 20 U.S.C. § 6311(c)(2)

Non-Title I schools do not receive a federal accountability designation. They receive a School Performance Profile (SPP) score and will have access to all of the interventions and supports available to Title I schools. The SPP scores will be posted on a website and will provide academic performance and demographic data for each school district, school building, comprehensive career and technology center, and cyber charter and charter school. Under the site, each school building will receive a performance score that is based upon indicators that PDE selected to define a high-performing school. The building-level data will be used as a component of the state's new teacher evaluation system under Act 82 of 2012.

School improvement plans for priority & focus schools – Priority and focus schools must develop improvement plans based upon implementing selected interventions identified for the turnaround principles appropriate for the school's improvement needs. Struggling schools that received federal School Improvement Grants (SIG) authorized under Title I of the ESEA must implement one of four rigorous intervention models as outlined in SIG final requirements (turnaround, transformation, restart, closure). Priority schools will be required to implement interventions associated with seven defined school turnaround principles. The manner and degree to which the principles are implemented will vary within each school. Also, they will be required to demonstrate that they have participated in the training and technical assistance available to them and are implementing and evaluating the efficacy of their implementation efforts.

PDE will provide a regionally assigned Academic Recovery Liaison (ARL) to facilitate and oversee Priority schools' use of the training, technical assistance, and tools available to them from PDE. Each ARL will be committed to his/her Priority schools for three years. The ARL will develop a working relationship with the IUs within his/her assigned region and ensure that the IU is targeting the Priority schools, and conversely, the Priority schools are accessing the available IU services.

Priority schools and the ARL are required to maintain documentation related to training, technical assistance, implementation and evaluation. Tracking and reconciliation of records associated with input and output measures related to training and technical assistance will be compared against impact; impact will ultimately be determined by whether or not the AMOs are met.

School districts are accountable for increasing graduation rates and closing the achievement gap. School-level improvement plans must include assurances that the district will provide the human and fiscal resources necessary to implement the plan and improve student achievement. Districts must also provide the leadership support to the school principal in the form of a district-level liaison who will champion turnaround efforts and serve as a partner in the reform effort.

Special Education


Public schools are mandated by federal and state law, regulation and court decisions to meet the educational needs of *all* children. Schools must ensure that each student with a disability receives a Free Appropriate Public Education (FAPE) and that a system of procedural safeguards is in place. Special education requirements are outlined in the federal Individuals with Disabilities Education Improvement Act (IDEIA), federal regulations, and Pennsylvania State Board of Education regulations.⁹⁵

Students with disabilities that do not require special education programs and services are also entitled to FAPE under a separate set of laws and regulations and must be provided services and accommodations needed to afford each student with an equal opportunity to participate in and obtain the benefits from educational programs and extracurricular activities without discrimination.⁹⁶

Pennsylvania has exceeded many requirements of federal law in the areas of evaluation for eligibility, discipline, and due process granted to children in need of special education. It is fair to say that special education is one of the most prescriptive and costly mandates imposed on school entities, with numerous detailed procedures and rules covering requirements that must be met within specific timelines for:

- Development of a special education plan.
- Child find (identification of students), public awareness and screening (evaluation of students).
- Early intervention services for children age 3 to kindergarten.
- Development, review and revisions as necessary of an Individualized Education Program (IEP) for each student that describes the needs, supports and services that will be provided. A team is required to be created for the development and review of the IEP that must include, among others, school administration, teachers and parents of the student.
- Placement of students and district obligation to pay private school tuition, in certain cases.
- Educating students in the least restrictive environment necessary.
- Behavior supports for students.
- Complaint and due process/hearing procedures, and resolution sessions.
- Extended School Year (ESY) services for eligible students.
- Educational and professional development requirements for instructional paraprofessionals and personal care assistants.
- Transportation for special education students.
- Use of service animals in schools.

Schools must ensure that each student with a disability receives a Free Appropriate Public Education (FAPE).



⁹⁵ 20 U.S.C. § 1400 *et seq.*, 34 CFR Part 300, 22 Pa. Code Chapter 14.

⁹⁶ 29 U.S.C. § 794, 34 CFR Part 104, 22 Pa. Code Chapter 15.

Special Education for Gifted Students

While not a federal mandate, Pennsylvania law and regulations⁹⁷ also require school districts to identify and provide specifically designed instruction and programs for gifted students. However, charter schools *are not required* to provide gifted services to identified students.

School districts must follow procedures and rules covering requirements that must be met within specific timeframes for:

- Development of a gifted education plan.
- Identification and screening of gifted students within the district.
- Development, review and revisions as necessary of a Gifted Individualized Education Plan (GIEP) for each student that describes the education and support services to be provided to the student. A team is required to be created for the development and review of the IEP that must include, among others, school administration, teachers and parents of the student.
- Documentation of activity regarding the GIEP and proof of parental consent.
- Placement/caseloads of students.
- Evaluations and re-evaluations of students.
- Compliance monitoring.
- Complaint and due process/hearing procedures, and dispute mediation sessions.
- Professional development for gifted and regular teachers, principals, administrators and support staff persons responsible for gifted education.

Personnel Issues

- **Hiring/child protection issues:** School districts must comply and ensure compliance with various child protection requirements regarding employees and volunteers. They include:
 - **Employee background checks** – All prospective school employees must obtain a state child abuse clearance statement as well as state and federal criminal history clearances.⁹⁸
 - **Employment history reviews (“Pass the Trash”)** – All prospective school employees must submit contact information for their current employer and prior positions in schools or that involved direct contact with children. School districts must then request information from those prior employers on whether the applicant has been investigated, discharged, disciplined, or had a license revoked for sexual misconduct. Current and former employers of the applicant must disclose the information requested within 20 days from receiving

⁹⁷ 24 P.S. § 13-1371, 22 Pa. Code §§ 4.13(e), 4.28(b), Chapter 16

⁹⁸ 24 P.S. § 1-111, 23 Pa. C.S.A. § 6344

ing the request from the school entity/independent contractor.⁹⁹

- **Disclosure of arrest/conviction** – Prospective employees must fill out a form provided by PDE informing the school district whether they have been convicted of an offense that bans them from employment in a public school. Current employees must submit the same form to the school administrator within 72 hours of an arrest or conviction for an offense that bans them from employment in a public school.¹⁰⁰
- **Report of arrests** – School administrators are required to report to PDE all instances of certificated employees reporting an arrest or conviction for specific offenses and crimes. The report must be filed within 15 days of receipt of the information.¹⁰¹
- **Mandated reporter of suspected child abuse** – School employees are required to report suspected child abuse to the state ChildLine Office if they have reasonable cause to suspect that a child is a victim of child abuse. Employees are required to notify the school administrator.¹⁰²
- **School volunteers** – Volunteers who are responsible for the child's welfare or who have a direct contact with children at a school are required to have state criminal history and child abuse clearances. A federal criminal history check is also required if the volunteer has not been a Pennsylvania resident for the past 10 years.¹⁰³
- **Superintendent contracts/evaluations:** State law contains several requirements for employing and evaluating school district superintendents and assistant superintendents. Employment contracts must contain specified items related to term, compensation and evaluation.¹⁰⁴
- **Collective bargaining:** School districts must enter into collective bargaining with teachers to determine salary schedules, benefits and other terms and conditions of employment. Districts must follow specific rules, procedures and timelines to comply with numerous requirements regarding filing grievances, bargaining, fact finding, impasse procedures, arbitration and strikes.¹⁰⁵
- **Healthcare:** Federal law requires employers with 50 or more employees to offer health insurance for employees who work 30 hours or more per week.¹⁰⁶ Specific plans and employee contribution costs are typically subjects of the collective bargaining agreements.
- **Bereavement leave:** School districts must provide professional

⁹⁹ 24 P.S. § 1-111.1

¹⁰⁰ 24 P.S. § 1-111

¹⁰¹ 24 P.S. § 2070.9a, Basic Education Circular – Background Checks for Prospective Employees; Conviction of Employees of Certain Offenses. December 12, 2011

¹⁰² 23 Pa. C.S.A. §§ 6311(a), 6313

¹⁰³ 23 Pa. C.S.A. § 6344.2

¹⁰⁴ 24 P.S. §§ 10-1073, 10-1073.1

¹⁰⁵ 24 P.S. § 11-1101 *et seq.*, 43 P.S. § 1101.101 *et seq.*

¹⁰⁶ 42 U.S.C. § 4980H

employees three days of paid absence when a death occurs to an immediate family member, and one paid day for the day of the funeral for the death of a near relative.¹⁰⁷

- **Sick leave:** School districts must provide professional employees with 10 sick days per year. Professional employees are permitted to accumulate unused sick days without limitation. When professional employees end employment in one district and enter employment with another, they are entitled to transfer up to 25 previously accumulated sick days.¹⁰⁸
- **Military leave:** Federal and state law requires public and private employers to grant unpaid leave of absence for military service on active duty or in the military reserve components, be reinstated to their jobs upon return, and have access to certain health, pension, seniority and other benefits during the absence or upon return.¹⁰⁹
- **Veterans' preference in hiring:** Military veterans are entitled to preference when districts initially hire individuals. Veterans must meet other reasonable, job-related qualification requirements established by the district.¹¹⁰
- **Induction for new teachers:** School districts must have an induction plan for first-year teachers, long-term substitutes who are hired for 45 days or more, and educational specialists that must be submitted to PDE for approval.¹¹¹
- **Professional development:** School districts must have a plan for continuing professional education that must be submitted to PDE for approval.¹¹²
- **PA Inspired Leadership Program:** Superintendents, principals, assistant principals, vice principals, and other administrators are required to complete PDE's PA Inspired Leadership Program.¹¹³
- **Child abuse recognition and reporting:** School districts are required to provide training to employees on child abuse recognition and reporting as part of professional development.¹¹⁴
- **Educator evaluations:** School districts must evaluate professional employees using a system required under state law that meets specific criteria.¹¹⁵
- **Dismissal of employees:** School districts must comply with numerous requirements under state law, constitutional due process provisions and, if applicable, provisions of collective bargaining agreements.¹¹⁶

¹⁰⁷ 24 P.S. § 11-1154

¹⁰⁸ 24 P.S. § 11-1154

¹⁰⁹ 24 P.S. §§ 11-1176-11-1181, 51 Pa. C.S.A. §§ 4102, 7309, 38 U.S.C. § 4301 *et seq.*

¹¹⁰ 51 Pa. C.S.A. § 7101 *et seq.*

¹¹¹ 22 Pa. Code § 49.16(a)

¹¹² 24 P.S. § 12-1205.1(a), 22 Pa. Code § 49.17(a)

¹¹³ 24 P.S. §§ 10-1003, 11-1109, 12-1205.5, 12-1217

¹¹⁴ 24 P.S. § 12-1205.6(a)

¹¹⁵ 24 P.S. § 11-1123, 22 Pa. Code § 19.1

¹¹⁶ See 24 P.S. §§ 11-1121-11-1130

- **Layoffs due to school closure:** When reducing staff because of the closing of a school or department, school districts must hold a publicly advertised meeting on the closure at least 90 days before the school board's decision.¹¹⁷ When teacher positions are abolished as a result of a school closing, the affected individuals must be given notice at least 60 days prior to the start of the school year in which the layoff will take effect. Failure to provide notice could result in an obligation to pay the employees their salaries for the entire upcoming school year.¹¹⁸
- **Lunch:** School districts must provide professional and temporary professional employees a 30-minute lunch period free of supervision or other duties.¹¹⁹
- **Sabbaticals:** School districts must offer sabbatical leave to administrative and professional employees who have completed 10 years of satisfactory service, with at least five consecutive years in their current district. Sabbaticals can be taken for professional study or restoration of health. A sabbatical leave can be taken for one full school year or as two half-terms within two years, at the employee's option. Employees are entitled to at least one-half of their regular salary during a sabbatical.¹²⁰
- **Tenure:** School districts must grant tenure rights to professional employees upon successful completion of a three-year probationary period in the district. With tenure, employees have enhanced protection from termination of employment and layoffs. Teachers acquire tenure in all public school entities except charter schools. Once a teacher earns tenure, that status is transferable if they decide to take employment in another school district.¹²¹
- **Furloughs:** Professional employees may only be furloughed under certain circumstances and procedures outlined in law. Employees furloughed or demoted have a right to be recalled to positions for which they are properly certificated. School districts may not hire a new employee to fill a position for which a suspended employee is certificated.¹²²
- **Seniority:** When furloughs occur, professional employees must be furloughed in the reverse order of seniority, determined by years of service, within the district.¹²³
- **Transfer between entities:** Special rights are given to professional employees who are laid off due to the transfer of an entire class or program to another school entity. The entity that takes over the class

¹¹⁷ 24 P.S. § 7-780

¹¹⁸ 24 P.S. § 5-524

¹¹⁹ 24 P.S. § 15-1504(a)

¹²⁰ 24 P.S. §§ 11-1166-11-1171

¹²¹ 24 P.S. § 11-1108

¹²² 24 P.S. §§ 11-1124, 11-1125.1

¹²³ 24 P.S. § 11-1125.1(a)

School districts are required to develop a Memorandum of Understanding (MOU) with local police departments having jurisdiction over school property.



or program must offer such professional employees a position in the program at the new location before hiring new staff to operate the program.¹²⁴

- **Retirement benefits:** All full-time and regular part-time school district employees (working at least 80 days or 500 hours) are members in the Pennsylvania Public School Employees' Retirement System.¹²⁵

School Safety

There are numerous requirements and provisions related to school safety that are mandated in state law and regulations. They include:

Emergency preparedness plan: School districts are required to develop and implement a comprehensive disaster response and emergency preparedness plan consistent with the guidelines developed by the Pennsylvania Emergency Management Agency and other pertinent state requirements.¹²⁶

Creating an MOU: School districts are required to develop a Memorandum of Understanding (MOU) with local police departments having jurisdiction over school property. Each MOU must be biennially updated and re-executed with each local police department.¹²⁷ Districts must file their MOUs with PDE and must identify any substantive differences between its own MOU and the model MOU prepared by PDE along with a statement of reasons for the differences.¹²⁸

Policy/expulsion for weapon: School districts are required to expel, for not less than one year, any student who is determined to have brought a weapon onto school grounds. Districts are required to write policies regarding expulsions for possession of weapons on school grounds. Districts are required to report to PDE all incidents relating to the expulsion of any student for possessing a weapon on school grounds.¹²⁹

Maintenance of records: School districts are required to maintain records of incidents of violence, incidents of possession of a weapon, and convictions or adjudications of delinquency for acts committed on school property by students enrolled in the district on both a district-wide and school-wide basis.¹³⁰

¹²⁴ 24 P.S. § 11-1113

¹²⁵ 24 Pa. C.S.A. § 8301(a)

¹²⁶ 35 P.S. § 7701(g), 22 Pa. Code § 10.24

¹²⁷ 24 P.S. § 13-1303-A(c), 22 Pa. Code § 10.11(a)

¹²⁸ 22 Pa. Code § 10.11(d)

¹²⁹ 24 P.S. § 13-1317.2

¹³⁰ 24 P.S. § 13-1307-A

Incident reporting requirements: School districts are required to report annually to PDE all incidents of violence, weapons, alcohol, drugs and tobacco possession.¹³¹ An extensive annual report listing statewide and individual school district information is then prepared by PDE and is available on its website.

Notification of incidents/handling students with a disability: School districts are required to follow specific procedures for both immediate mandatory notification as well as discretionary notification of law enforcement of certain incidents that occur on school property, at any school-sponsored activity or on any conveyance providing transportation to or from a school or school activity.¹³² If an incident involves a student with a disability, the district is required to follow additional procedures.¹³³

Transfer of disciplinary records: School districts are required to send the disciplinary records of any transferred student to the new school of attendance within 10 days of receiving a request for such records.¹³⁴

Juvenile probation notification: If a student is found by a court to be a delinquent child, the court, through its juvenile probation department, is required to provide information about a student's adjudication to the principal of the school where the child is enrolled. The principal must share the information with the student's teacher or with the principal of another school to which the student transfers. Any information reported must be maintained separate from the child's official school record.¹³⁵

Fire drills and school bus evacuations: School districts must conduct periodic fire drills (one per month) and school bus evacuation drills (two per school year) and certify to PDE that the required emergency drills have been conducted.¹³⁶

School police: School districts seeking to employ or enter into an agreement with a local municipality for school police officer services must follow certain rules and procedures. Districts that employ school police officers must consider them as employees of the school who are entitled to all benefits of a school district and must annually report to the Office of Safe Schools the number of school police as well as other information.¹³⁷

Workplace Safety Committee: School districts, as Pennsylvania employers,

¹³¹ 24 P.S. § 13-1303-A(b)

¹³² 22 Pa. Code §§ 10.21, 10.22

¹³³ 22 Pa. Code § 10.23

¹³⁴ 24 P.S. § 13-1305-A

¹³⁵ 42 Pa. C.S.A. § 6341(b.1)

¹³⁶ 24 P.S. §§ 15-1517, 15-1518(b)

¹³⁷ 24 P.S. § 7-778

that want to reduce their workers' compensation insurance premiums each year must create a certified workplace safety committee.¹³⁸

Health & Wellness

Student assistance programs: School districts are required to create a student assistance program to help school personnel to identify issues, including alcohol, drugs and others, that pose a barrier to a student's learning and school success.¹³⁹

School tobacco control: School districts must ban the use of tobacco by students and persons other than students on property or in vehicles owned or leased by a school district. Districts must notify students, in addition to parents and employees, of the tobacco use policy.¹⁴⁰

School lunch and breakfast nutrition guidelines: School districts are required to adopt and implement federal nutritional guidelines for food and beverages available in each school building to be eligible for supplemental reimbursement for school lunch and breakfast programs.¹⁴¹

School nutrition contracts: School districts that enter into exclusive contracts to provide competitive foods or beverages (defined as any food or beverage sold in competition with items sold through the federal school lunch or breakfast programs) must follow specific rules, including public notice or a public hearing about the contract and reporting the amount and source of funds received and the expenditures made from those funds.¹⁴²

School nurse certification and nurse to student ratio: School districts are required to hire school nurses that are specially certified by PDE to work in schools.¹⁴³ Under current law, a school nurse cannot have more than 1,500 students under his/her care.¹⁴⁴ A school nurse can be responsible for students across multiple school buildings, so long as they still meet the ratio requirements.

Required school health services: School districts are required to provide a number of health services for students by state and federal laws and regulations. Some of the mandated health services include:

- Maintenance of a comprehensive health record which shall include

¹³⁸ 77 P.S. § 1038.2(b)

¹³⁹ 24 P.S. § 15-1547(g), 22 Pa. Code § 12.42

¹⁴⁰ 35 P.S. § 1223.5

¹⁴¹ 7 CFR §§ 210.10, 220.8

¹⁴² 24 P.S. § 504.1

¹⁴³ 24 P.S. §§ 14-1401(8), 14-1402(a.1), 14-1410(a)

¹⁴⁴ 24 P.S. § 14-1402(a.1)

the results of the tests, measurements and regularly scheduled examinations and special examinations.¹⁴⁵

- Medical and dental examinations.¹⁴⁶
- Vision, hearing, height/weight and tuberculosis screenings.¹⁴⁷
- Immunization accountability.¹⁴⁸
- Policies and procedures for emergency care and the administration of medications.¹⁴⁹
- Policies and procedures to address food allergies in schools.¹⁵⁰
- The federal Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act also dictate what services, including medical services, a school district must provide to a student.¹⁵¹

Local wellness policy/Advisory health councils: School districts that participate in the National School Lunch or School Breakfast Program must maintain a Local Wellness Policy that, at a minimum, must include goals for physical activity, nutrition guidelines and education and other school-based activities that are designed to promote student wellness. Districts are required to work with a wellness committee that includes representation from parents, students and the public if the goals of the policy are proposed to be changed.¹⁵²

Asthma medication: School districts are required to adopt a written policy to allow students possess and use an asthma inhaler on school premises.¹⁵³

Bullying policy: School districts are required to adopt a policy on bullying or include such a policy as part of its existing Student Code of Conduct. The policy must include discipline consequences and designate a person to receive bullying reports, must be posted on the district website and in classroom and building, must be reviewed with students within 90 days of adoption and annually each year, must be reviewed at least every three years and a copy sent to PDE, and may include prevention and intervention techniques.¹⁵⁴

Suicide awareness/child exploitation policy and education: School districts are required to adopt youth suicide awareness and prevention policies, and provide ongoing professional development for teachers in grades 6-12.¹⁵⁵

¹⁴⁵ 24 P.S. § 14-1402(b), 28 Pa. Code § 23.8

¹⁴⁶ 24 P.S. §§ 14-1402(e), 14-1403, 28 Pa. Code §§ 23.2, 23.3

¹⁴⁷ 24 P.S. § 14-1402(a), 28 Pa. Code §§ 23.4, 23.5, 23.7, 23.9

¹⁴⁸ 24 P.S. § 13-1303a, 28 Pa. Code § 23.85

¹⁴⁹ 22 Pa. Code § 12.41(a)

¹⁵⁰ PDE guidelines implementing 24 P.S. § 14-1422.3(6)

¹⁵¹ 20 U.S.C. § 1400 et seq., 29 U.S.C. § 794

¹⁵² 42 U.S.C. § 1758b, 24 P.S. § 14-1422.1(a)

¹⁵³ 24 P.S. § 14-1414.1(a)

¹⁵⁴ 24 P.S. § 13-1303.1-A

¹⁵⁵ 24 P.S. § 15-1526(a)

School districts must consider applications for brick and mortar charter schools that would be located within its boundaries.

CPR: State law sets these requirements regarding cardiopulmonary resuscitation (CPR):

- **Certification for nurses:** Requires school nurses to be certified in CPR. A school nurse hired after July 1, 2014, must be certified or complete CPR certification within one year.¹⁵⁶
- **CPR:** School districts must have at least one person certified in CPR in each school building.¹⁵⁷
- **CPR instruction:** Requires the school districts to offer instruction in CPR on school premises at least once every three years to the general public and to all school employees, who may include CPR training as part of their continuing education plan.¹⁵⁸

Concussion and cardiac arrest training: School districts are required to send information home with student athletes regarding concussions and sudden cardiac arrest. Parents must read and sign acknowledgement forms prior to their student participating in an athletic activity, which includes interscholastic sports, intramural and club sports as well as cheerleading sponsored by the school. Coaches must complete annual training on symptoms of concussions and cardiac arrest, remove students from athletic competition if they show signs or symptoms of a concussion or cardiac arrest, and not allow a student to resume participation until medically cleared. School boards must apply penalties to a coach for failing to comply with any of these requirements.¹⁵⁹

Charter Schools

Charter school applications (brick-and-mortar): School districts must consider applications for brick-and-mortar charter schools that would be located within its boundaries. (Cyber charter school applications are considered by PDE.) Within 45 days of receiving the application, the district must hold at least one public hearing and strictly comply with the various timelines and processes established under state law. If the district denies the application, the charter applicant may revise and resubmit the application to the school board or appeal to the state Charter School Appeal Board.¹⁶⁰

Tuition (regular education): School districts make payments to charter and cyber charter schools for their resident students who attend. Payments are based on the sending district's prior year budgeted expenditures per average daily membership minus certain budgeted expenditures.¹⁶¹ Districts may subtract their tax collection costs, athletic funds and costs related to

¹⁵⁶ 24 P.S. § 14-1410(b)

¹⁵⁷ 24 P.S. § 14-1424(a)

¹⁵⁸ 24 P.S. § 12-1205.4

¹⁵⁹ 24 P.S. § 5321 *et seq.* 24 P.S. § 5331 *et seq.*

¹⁶⁰ 24 P.S. § 17-1717-A

¹⁶¹ 24 P.S. § 17-1725-A

school-sponsored extracurricular activities. Districts may not make deductions for services and programs that cyber charters do not offer, including costs for food services, library services, and health services.

Tuition (special education): School districts pay an additional supplement to charter and cyber charter schools for special education students. The funding formula for special education differs from the formula used to calculate school district special education subsidies and is again based on the student's district of residence's special education expenditures for the prior school year. It is not capped at the actual cost of the special education services the charter school provides resident students.¹⁶²

Retirement benefits: School districts are required to pay 100% of the costs to cover charter and cyber charter school employees in the Pennsylvania Public School Employees' Retirement System. Costs are based on each student enrolled in the charter school.¹⁶³

Extracurricular and sports activities: School districts must provide equal opportunities for charter and cyber charter school students to compete for spots within an extracurricular activity. School districts are also required to pay for the cost of charter and cyber charter school students to participate in their extracurricular activities, and may charge the charter/cyber charter school for such costs.¹⁶⁴

Truancy issues: Charter and cyber charter schools must report to the student's school district of residence when a student has accrued three or more days of unexcused absences. It is then the district's responsibility to enforce the state's compulsory attendance laws.¹⁶⁵

Transportation: School districts are required to provide transportation for students to and from charter schools. Transportation to charter schools must be provided on dates the charter school is in regular session, regardless of whether the district is also in session. The same distance requirements are established for charter school students as for other public school students regarding when transportation must be provided.¹⁶⁶

¹⁶² 24 P.S. § 17-1725-A

¹⁶³ 24 P.S. §§ 17-1724-A(c), 17-1725-A(a)

¹⁶⁴ 24 P.S. § 17-1719-A(14)

¹⁶⁵ Basic Education Circular 24 P.S. § 17-1701-A Issued October 1, 2004.

¹⁶⁶ 24 P.S. § 17-1726-A(a)



PSBA mandate relief recommendations

At a time when state and local budgets cannot be stretched any further, unfunded and underfunded mandates continue to present challenges for school district budgets by forcing districts to make tough decisions about academic and extracurricular programs, class sizes, staffing levels, professional development opportunities, building maintenance and upgrades, technology initiatives, and many other issues.

Mandates, while usually imposed with the goal of improving the quality of education, student achievement, health, safety and wellness, accountability, transparency and the efficient expenditure of taxpayer money, often limit school districts' ability to best use their limited dollars in ways that have the most positive impact on student success. PSBA is calling upon the General Assembly to take action to lift unnecessary and cumbersome mandates and allow school districts to apply for waivers to mandates in certain instances.

PSBA also welcomes an aggressive plan to boost school funding. While the additional money is needed and appreciated, the other half of the battle – the cost drivers – needs to be addressed in a meaningful way to save school districts and local taxpayers money as well. Attacking both sides of the problem will go a long way in creating more efficient use of public dollars and more effective public schools. Further, any new mandate should be fully funded with state dollars before it can be passed into law so that additional unintended consequences can be avoided.

The following are PSBA's policy goals for some specific legislative changes that will provide significant relief to school districts and allow them to allocate more of their resources to improving student learning and success. These solutions will save school districts real dollars that can be allocated to the classroom.

Recommendations for mandate relief have been drawn directly from the **PSBA Legislative Platform**, which is developed and approved by member school entities each year. The full platform can be found at www.psba.org/legislative-advocacy/legislative-platform-priorities/.

The legislative recommendations:

1. Reinstate a mandate waiver program

The Mandate Waiver Program created under Act 16 of 2000 allowed school districts to apply for waivers from certain mandates in the Public School Code, State Board of Education regulations or standards of the Secretary of Education if the waiver would enable the school district to improve its instructional program or operate in a more effective, efficient or economical manner. Act 16 expired in 2010 due to sunset provisions, and the General Assembly's attempts to revive it were not successful. PSBA recommends reinstating a similar mandate waiver program to allow school districts to benefit in several key ways.

First and foremost is the savings and increased efficiency that can be expected. Act 16 saved the state's taxpayers millions of dollars, although it applied only to a few mandates. One example of the savings generated by Act 16 comes from a report issued in February 2009 by then-Secretary of Education Gerald Zahorchak and presented to the governor and General Assembly as part of a taskforce on mandate waivers.¹⁶⁷ According to the report, Section 751 (24 P.S. 7-751) was the Public School Code provision from which school districts most frequently sought relief through the Mandate Waiver Program.¹⁶⁸ Section 751 contains a multiple prime contractor requirement which mandates that school districts bid construction projects with a minimum of four prime contracts (e.g., general, plumbing, heating, electrical, etc.) and award contracts to the successful bidders from each prime.¹⁶⁹ The report noted that "[m]any school districts reported that compliance with this mandate is burdensome and would prefer to combine contracts or award a single prime contract for their construction projects, or at least have that option."¹⁷⁰ From 2000-2008, 128 school districts applied to waive multiple prime bidding and more than 80 were approved.¹⁷¹ Of the 128 applications, 117 were for projects eligible for state reimbursement under the PlanCon process and the cost savings estimated in those applications ranged from \$4,000 to \$28.3 million.¹⁷²

Mandates can come about for many different reasons. Most mandates are created to address a particular issue during a specific time. Some are created in response to an isolated instance or based on the political agenda of a particular legislator. As time passes some of these issues may disappear or more efficient alternatives may arise. Also, because mandates are often applied to every school district, districts are stripped of some of their local flexibility. In other words, what may constitute a useful mandate in one

¹⁶⁷ Task Force on Mandate Waivers: A Report to the Governor and General Assembly, February 2009, Available: http://www.concernedcontractors.com/wp-content/uploads/2015/07/Mandate_Waiver_TF_Report_1_.pdf. Accessed 4/11/16

¹⁶⁸ Id. Page 5.

¹⁶⁹ Id.

¹⁷⁰ Id. Pages 5-6.

¹⁷¹ Id. Page 6

¹⁷² Id.

district may prove to be an obstacle to educational innovation for another or districts with effective and efficient programs would be forced to change what works for them in order to comply with a new mandate. If school districts can demonstrate that a localized program provides more efficient and effective means of delivering a mandated educational service, while also providing financial savings, it should be granted a waiver. This ability would benefit both local taxpayers and most importantly, students, by allowing districts to hold the line on property taxes and provide enhanced educational programs.

PSBA believes the time is right to renew an expanded mandate waiver program that would give school districts the ability to seek relief from certain state mandates and return those savings to the classroom.

2. Apply the special education funding formula under Act 126 of 2014 equally to charter schools and cyber charter schools just as it applies to school districts

The Charter School Law establishes a formula to be used to determine the tuition payments made by school districts for students requiring special education services.¹⁷³ The current formula takes the non-special education rate and adds a supplement based on the school district's special education expenditures per student for the prior year. This system fails to take into account the actual programs and services needed to educate each individual student and instead applies a uniform tuition based on average costs to educate all of the school district of residence's special education students.

In 2014-15, charter schools and cyber charter schools received over \$466 million in special education tuition payments from school districts,¹⁷⁴ roughly \$294 million of that being attributable to the special education supplement¹⁷⁵, and reported gifted and special education expenditures of \$195 million¹⁷⁶. Said another way, charter schools and cyber charter schools received about \$99 million more than was necessary to meet the special education needs of their students, with no restrictions to use these funds for only special education purposes.

Act 126 of 2014 established a new, fair special education funding formula based on actual special education enrollment and weighted costs of providing a special education program to each eligible student according to several factors.¹⁷⁷ The problem? Although it was intended to apply equally to school districts and charter/cyber charter schools, the law as passed af-

¹⁷³ 24 P.S. § 17-1725-A(a)(3)

¹⁷⁴ State AFR Data: Detailed, Expenditures, Tuition Schedule. Available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

¹⁷⁵ Calculated by subtracting the non-special education tuition rate from the special education tuition rate (rates for each school district are available: <http://www.education.pa.gov/K-12/Charter%20Schools/Pages/Charter-School-Funding.aspx#>) and then multiplying by the charter school special education enrollment for each school district (October 1, 2014 enrollment data available: <http://www.education.pa.gov/K-12/Charter%20Schools/Pages/Annual-Reports,-Data-and-Resources.aspx#>).

¹⁷⁶ State AFR Data: Detailed, Expenditures, Expenditure Detail – SDs. Available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

¹⁷⁷ 72 P.S. § 1722-J(10)

affected only school districts. No changes were made to the special education funding formula for charter/cyber charter schools.

As a result, school districts are required to continue using a flawed special education tuition formula that forces them to overpay charter and cyber charter schools for the programs and services provided to special education students. PSBA believes that the Act 126 special education funding formula should be used to determine the tuition paid to charter schools and cyber charter schools for students in need of special education programs and services.

3. Remove the state-mandated requirement for Keystone Exams as a graduation requirement; eliminate the state-mandated project-based assessments

Although Act 1 of 2016 delayed the use of Keystone Exams as a graduation requirement until the 2018-19 school year¹⁷⁸, students in that class will be required to achieve a passing score on Keystone Exams in Algebra I, Literature, and Biology in order to graduate.¹⁷⁹ If a passing score is not achieved after two attempts taking each exam, a project-based assessment (PBA) is required.¹⁸⁰

Keystone Exams and PBAs present a sizable unfunded mandate for schools in terms of cost, time and staffing. In order to prepare their students to take and pass Keystone Exams, school districts have incurred increasing costs to continue to adapt their curriculum and instruction and have updated textbooks and materials available for students. There are professional development and training costs, extensive recordkeeping, class scheduling and student remediation costs. Additionally, school districts must implement the technology and infrastructure to support students working on the PBAs. This includes district assessment coordinators, school building assessment coordinators, test administrators, and teacher tutors. Training is required for staff in each of these roles, and a great amount of recordkeeping is required to determine timelines for completion, provide notifications, schedule sessions and monitor students to ensure they have participated in the PBA (an online PBA can take up to 10 hours to complete) and completed their goals.

Keystone Exams can also have a negative impact on career and technical education (CTE) students. Early testing indicates that the Keystone Exam graduation requirements will result in significant decreases in student participation in CTE. For CTE students not passing a Keystone Exam, the school would be required to provide supplemental instruction designed to enable the student to pass the exam. The time required for supplemental instruction will certainly reduce the opportunity for students to participate in CTE courses; in some cases, students will elect to drop out of school.

While the administration of Keystone Exams is necessary for federal

¹⁷⁸ 24 P.S. § 1-121(b)(1)

¹⁷⁹ 24 P.S. § 1-121; 22 Pa. Code §§ 4.24, 4.51a, 4.51c

¹⁸⁰ 22 Pa. Code § 4.51c(d)

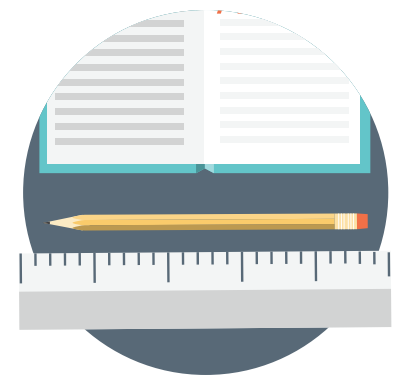
accountability purposes, the use should be modified to lessen their high-stakes impact and provide additional flexibility. The use of exams to grant or deny a diploma is unfair because it does not allow for teachers to consider other measures of student performance and the needs of diverse learners in determining proficiency. Further, students that are already vulnerable, such as low-income and minority students, are at risk for being denied a diploma because many schools do not have the resources or staff to fully support them in passing these exams. Therefore, PSBA recommends the removal of Keystone Exams as a requirement for graduation and the complete elimination of project-based assessments.

4. Reduce school personnel costs

On average, 60-65% of school district budgets are allocated toward personnel costs (salaries and benefits).¹⁸¹ This is money well-spent because education is a human resource-focused industry and having experienced, dedicated staff is vital to student achievement. However, there are many costly legislative requirements with respect to school personnel that are often better left to local bargaining. Some of the key personnel-related mandates where relief is needed are listed below.

Furloughs for economic reasons/seniority: The Public School Code places restrictions on the reasons for which school districts can furlough professional employees and the order in which professional employees must be furloughed.¹⁸² Generally, professional employees cannot be furloughed for economic reasons. Professional employees may only be furloughed due to a substantial decrease in student enrollment, curtailment or alteration of the educational program (as recommended by the district superintendent and approved by the school board) or when the consolidation, merger or reorganization of schools makes it unnecessary to retain all current professional employees.¹⁸³ If furloughs are to take place, professional employees have several seniority-based protections. Professional employees must be furloughed in inverse order of seniority in the school district and the district must realign its professional staff so that more senior employees are given the opportunity to fill positions for which they are certified.¹⁸⁴ As more school districts face mounting budgetary challenges, changes are needed to allow school districts the ability to furlough professional employees for purely economic reasons instead of eliminating entire programs. Also, allowing school districts to determine the order in which professional employees are furloughed based on merit instead of seniority

While the administration of Keystone Exams is necessary for federal accountability purposes, **the use should be modified to lessen their high-stakes impact** and provide additional flexibility.



¹⁸¹ State AFR Data: Detailed, Expenditures, Object-Level Expenditures. Available: <http://www.education.pa.gov/Teachers%20-%20Administration/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

¹⁸² 24 P.S. §§ 11-1124, 11-1125.1. Professional employee is defined in 24 P.S. § 1101 to "include those who are certificated as teachers, supervisors, supervising principals, principals, assistant principals, vice-principals, directors of vocational education, dental hygienists, visiting teachers, home and school visitors, school counselors, child nutrition program specialists, school librarians, school secretaries the selection of whom is on the basis of merit as determined by eligibility lists and school nurses."

¹⁸³ 24 P.S. § 11-1124(a)

¹⁸⁴ 24 P.S. § 11-1125.1(a), (c)

would increase the effectiveness of district educational programs by allowing districts to keep better performing teachers as opposed to teachers who have simply been there the longest.

Work stoppages and collective bargaining issues: Teachers and teachers' unions have statutory authority to strike¹⁸⁵. During work stoppages, school districts have limited options on how they minimize disruption to school operations. School districts could still hold classes during a work stoppage, but the district would have to use employees that have been actively employed by the district in the last 12 months, unless an exception would apply.¹⁸⁶ Any work stoppage negatively impacts district operations and student learning. Students should not suffer due to collective bargaining challenges and PSBA seeks a remedy to this issue. Work stoppages and strikes by school employees should be prohibited without the approval of a majority of the entire bargaining unit in a secret ballot no more than 72 hours prior to the work stoppage.

Sick and bereavement leave: The Public School Code requires minimum levels of paid sick and bereavement leave for professional employees, and allows an employee who moves from one school district to another to take accumulated sick leave with them to their new district (such transfer is capped at 25).¹⁸⁷ Additionally, bereavement leave is mandated upon the death of a member of the professional employee's immediate family (three days) or a near relative (day of the funeral).¹⁸⁸ Benefits such as sick and bereavement leave should be a subject of collective bargaining between the school district and employee organization(s).

Mandated sabbatical: Administrative and professional employees with 10 years of satisfactory service (at least five of which must be in the school district from which leave is sought) can receive a paid leave of absence (at least one-half of his/her regular salary) for professional development or restoration of health.¹⁸⁹ Sabbatical leave may be taken for one full school year or two half-terms within two years, at the employee's option.¹⁹⁰ Sabbatical leave should not be an entitlement and is more appropriate as subject of collective bargaining between the school district and employee organization(s).

Transfer of entity: Generally, when a program or class is transferred as a unit from one school entity to another, the professional employees assigned

¹⁸⁵ 24 P.S. § 11-1101-A *et seq.*, 43 P.S. § 1101.101 *et seq.*

¹⁸⁶ 24 P.S. § 11-1172-A

¹⁸⁷ 24 P.S. § 11-1154

¹⁸⁸ 24 P.S. § 11-1154(b), (c)

¹⁸⁹ 24 P.S. §§ 11-1166-11-1171


¹⁹⁰ 24 P.S. § 11-1166(a)

to that program/class prior to the transfer must be offered employment in the program/class by the receiving school entity.¹⁹¹ Those transferred employees must be credited for the sick leave accumulated in the sending school and for their years of service for purposes of sabbatical leave entitlement and placement on the salary schedule.¹⁹² The transfer of entity requirements cause school entities to incur increased personnel costs when taking on a program/class from another school by forcing the employment of additional staff members at elevated salaries and seniority. PSBA recommends that the current requirements for schools to employ individuals under the transfer of entities statute be removed. Instead, receiving entities could be required to give first consideration for employment to individuals furloughed by a transfer of a program or class between school entities.

Superintendent contract renewal: School boards are required to take action regarding the retention of their current superintendent (or to state the board's intent to consider other candidates for the position) at least 150 days prior to the expiration of the superintendent's contract.¹⁹³ If the board fails to take action, the current superintendent's contract is automatically renewed for another full term of three to five years.¹⁹⁴ This could potentially cost districts a large sum when the automatic renewal is triggered during board transition periods or uncertain times. PSBA recommends modifying the school code to require action by the board 90 days (instead of 150) prior to the expiration of a superintendent's contract and to limit the automatic renewal of a superintendent's contract where a board does not act to one year, not another full three-to-five-year term.

School nurses: As part of the health services provided to students, school districts are required to employ licensed registered nurses that have also been certified by the PDE.¹⁹⁵ Requiring an additional certification from PDE prior to employment serves as a limit to the potential pool of school nurse candidates. School districts would benefit from greater flexibility in hiring school nurses. Specifically, school districts could hire registered nurses or certain other medical professionals who do not have school nurse certification and provide them with the appropriate professional development that has been approved by PDE instead of requiring them to hire a school nurse that already has completed certification requirements.

The transfer of entity requirements cause school entities to incur increased personnel costs when taking on a program/class from another school by forcing the employment of additional staff members at elevated salaries and seniority.



¹⁹¹ 24 P.S. § 11-1113

¹⁹² 24 P.S. § 11-1113(b)

¹⁹³ 24 P.S. § 10-1073(b)

¹⁹⁴ 24 P.S. § 10-1073(b)

¹⁹⁵ 24 P.S. §§ 14-1401(8), 14-1402(a.1), 14-1410(a)

5. Reduce requirements for nonpublic and charter school transportation

School districts are required to transport students to any nonpublic or charter school located within its boundaries and within 10 miles of its borders.¹⁹⁶ Transportation must be provided on the days and times the nonpublic or charter school is in regular session, whether or not the school district is in session.¹⁹⁷ As a result, school districts are required to purchase or contract for additional vehicles, increase the number of miles that district vehicles travel and/or schedule transportation runs on days they would not otherwise be operating. In 2014-15, over \$195 million was spent in transportation to/from nonpublic schools alone.¹⁹⁸

PSBA is seeking relief from these requirements by either reducing the 10-mile transportation limit, eliminating the requirement to transport nonpublic and charter school students on days the school district is not in session, or by completely funding the costs associated with these requirements.

6. Reduce school construction-related mandates

School construction is one of the most costly endeavors any school entity can undertake, yet it is vital for creating environments where learning can flourish. According to information from the US Census Bureau, Pennsylvania school districts spent over \$1.2 billion on school construction in 2013.¹⁹⁹ PSBA believes that with a few common-sense statutory changes, school construction can become much more efficient and will save districts money that can instead be allocated toward classroom instruction and students. Some of the key construction-related mandates where relief is needed are listed below.

PlanCon process: In order to receive state reimbursement for a share of the costs involved in a school construction project, school districts are required to go through the state's Planning and Construction Workbook (PlanCon) process.²⁰⁰ The process, which was first developed in the 1970s, consists of 11 steps (Parts A-K) with a multitude of forms and procedures that require completion and PDE approval before a project can move on to the next step. Some requirements, such as the need to submit building plans on microfilm, have become outdated and add to the expense of going through the PlanCon process. Considerable time and expense goes into

¹⁹⁶ 24 P.S. §§ 13-1361(1), 17-1726-A(a)

¹⁹⁷ 24 P.S. §§ 13-1361(1), 17-1726-A(a)

¹⁹⁸ State AFR Data: Detailed, Expenditures, Expenditure Detail – SDs. Available: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Finances/AFR%20Data%20Summary/Pages/AFR-Data-Detailed-.aspx#> Accessed 6/6/16

¹⁹⁹ Capital Outlay and Other Expenditures of Public Elementary-Secondary School Systems by State. Available: <http://www.census.gov/govs/school/>

²⁰⁰ The legal requirements relating to PlanCon can be found in Articles VII and XXV of the Public School Code. The school code requires school districts to obtain PDE approval before entering into contracts for construction projects and before receiving state reimbursement for that project. 24 P.S. § 7-731 and 24 P.S. § 25-2574. PDE developed the PlanCon process to carry out its duties as the regulatory agency charged with the oversight of public school construction in the state. A more detailed description of the PlanCon process can be found here: <http://www.education.pa.gov/Teachers%20-%20Administrators/School%20Construction%20and%20Facilities/Pages/Reimbursable-Projects.aspx#>

complying with the current PlanCon process, but the reimbursement provided by PlanCon is vital to school districts and their local tax bases.

PSBA recommends modernizing and streamlining the lengthy and cumbersome PlanCon process. The process needs to be shorter, easier to navigate and more transparent. School districts should also be able to ascertain exactly where they are in the process at any given time in order to make better budgeting decisions.

Prevailing wage requirements: School districts are required to pay the prevailing minimum wage, as determined by the PA Department of Labor and Industry, to workers on school construction projects where the total estimated cost exceeds \$25,000.²⁰¹ With the current threshold, almost any work of significance on a school building is going to trigger the prevailing wage requirements. Established in 1961, the \$25,000 threshold would be closer to \$200,000 today.²⁰²

PSBA seeks a complete elimination, or at least a local option, of the requirement for school construction projects to be subject to prevailing wage. Prevailing wage can cost districts up to 10% more than private construction projects simply because they are building or doing work on a school.²⁰³ The work product, people, and their labor are no different than for private projects; they are simply charged at a higher rate. With the amount that schools are spending on construction projects, those additional dollars would add up to significant savings for taxpayers.

Separate prime contracts: School districts are required to bid and enter into separate contracts for each component of a school construction project, such as general construction, plumbing, heating, ventilating and electrical work if the entire cost of the project will exceed an annually adjusted base amount.²⁰⁴ As a result, each contractor works independently and simultaneously on the project, requiring school districts to often hire a construction manager or engage an employee to coordinate and oversee the multiple contractors working on the project.

Requiring separate prime contracts is inefficient and can increase the cost of construction projects due to the need for oversight, change orders and cost overruns. PSBA recommends eliminating the separate prime contract requirement for school construction and allowing school districts to choose between separate and single prime contractors based on the project.

²⁰¹ 43 P.S. § 165-1 *et seq.*

²⁰² U.S. Bureau of Labor Statistics Consumer Price Index Inflation Calculator available: http://www.bls.gov/data/inflation_calculator.htm

²⁰³ Keller, Edward C.; Hartman, William T., Prevailing Wage Rates: The Effects on School Construction Costs, Levels of Taxation, and State Reimbursements, *Journal of Education Finance*, v27 n2 p713-28 Fall 2001

²⁰⁴ 24 P.S. § 7-751(a.2)

7. Eliminate the requirement for school districts to pay tax collection fee to an agency that is not doing the work

In order to accelerate the collection of delinquent real estate taxes, school districts have the ability to utilize a third party, as opposed to the county tax claim bureau, to collect delinquent real estate taxes.²⁰⁵ If a third party is used, the school district is still required to pay a fee or commission to the county tax claim bureau for the taxes collected by the third-party tax collector even though the county bureau did none of the work.²⁰⁶ PSBA recommends eliminating the requirement for school districts to pay any commission or fee to the county tax claim bureau for the collection of delinquent real estate taxes when those taxes are being collected by a third party.

8. Tighten the requirements for tax exempt status of certain properties

Real estate owned by an institution of purely public charity is exempt from taxation by school districts.²⁰⁷ With the heavy reliance on local property taxes, shrinking the amount of taxable property in a school district places a higher tax burden on individual homeowners. PSBA recommends that the requirements to be considered a “purely public charity” in current law be tightened. Additionally, institutions of purely public charity should be required to apply for tax-exempt status of real property every five years and a system of reporting for the county tax assessors and the Department of Community and Economic Development (DCED) should be created.

9. Allow reasonable compensation for complying with open records requests

The Right-to-Know Law requires school districts and other public agencies to provide certain information to requesters in the name of open and transparent government.²⁰⁸ The current law prohibits public agencies from charging a fee for the time taken to determine if a record is a public record subject to disclosure.²⁰⁹ Additionally, a public agency may not charge a fee for the staff time it takes to locate and retrieve information, nor for the time the agency spends redacting nonpublic information from a record.²¹⁰

While PSBA agrees with the intent of the law, some of the requests made under the law are burdensome, time-consuming for school personnel, and costly. PSBA recommends that the law be amended to require the requestor to pay for employee time and resources beyond one hour spent responding to and compiling information necessary to comply with open records requests.

²⁰⁵ 53 P.S. § 7147

²⁰⁶ 72 P.S. § 5860.207

²⁰⁷ Pa. Const. Art. VIII §2(a)(v), 10 P.S. § 371 *et seq.*

²⁰⁸ 65 P.S. § 67.101 *et seq.*

²⁰⁹ 65 P.S. § 67.1307(g)

²¹⁰ <http://www.openrecords.pa.gov/Using-the-RTKL/Fee-Schedule/Pages/default.aspx#>.

10. Provide options to legal advertising requirements

School districts have multiple public notice requirements under the Sunshine Law²¹¹ and the Public School Code that require placing public notices in print newspapers circulated in the school district. For example, school districts are required to give public notice once a week for three weeks in at least two newspapers before purchasing any furniture, equipment and supplies above an annually adjusted base amount.²¹²

The cost to publish these notices adds up quickly. PSBA recommends giving school districts options to meet legal advertising requirements, such as posting notices on school district websites instead of limiting publication to local print newspapers. Printed meeting notices should also be maintained at the school district office for public inspection, maintaining a standard of fairness for those who may not have regular access to the internet. Further, this solution is timely, and arguably necessary, as daily access to printed newspapers is limited due to many newspapers decreasing the number of days per week they distribute a print publication.

Eliminate interscholastic athletic opportunity reporting that has no impact on Title IX law

The Public School Code imposes annual reporting requirements on all school districts with regard to interscholastic athletic opportunities for male and female student athletes.²¹³ The report form requires school districts to compile information on all of its athletic teams such as the year the team was established; total number of participants (by gender and race) for each team at each level; the number of coaches per team; the percentage of time spent by each athletic trainer with each team; and the amount spent on travel, uniforms, supplies/equipment and facilities for each team at each level.²¹⁴

Reporting the required data in the required format is time-consuming, complex and burdensome, yet does nothing to achieve the gender equality in sports goals of the federal Title IX law. Beyond a requirement for each school district to publicize the availability of its report²¹⁵ and for PDE to compile and publish a state-wide report²¹⁶, it is unclear what purpose this requirement serves. Even without this report, school districts would still be required to provide equal athletic opportunities for male and female student athletes. Eliminating the state-specific reporting mandate would save school districts a great deal of staff time, which could then be directed to classroom instruction and extracurricular programs.

PSBA recommends giving school districts options to meet legal advertising requirements, such as posting notices on school district websites instead of limiting publication to local print newspapers.



²¹¹ 65 Pa C.S.A. § 701 *et seq.*

²¹² 24 P.S. § 8-807.1(a.2)

²¹³ 24 P.S. § 1601-C *et seq.*

²¹⁴ The Interscholastic Athletic Opportunities Disclosure Form and instructions are available: <http://www.education.pa.gov/Teachers%20-%20Administrators/Interscholastic%20Athletic%20Opportunity/Pages/default.aspx#>

²¹⁵ 24 P.S. § 16-1603-C(d), (e)

²¹⁶ 24 P.S. § 16-1604-C(d)

Conclusion

Mandates are, and always will be, a necessary component of the public education system. But when mandates become outdated, obstacles to providing an efficient and high-quality educational program, or drains on school district resources, school officials and policymakers have an obligation to work together to provide relief. Although relief could come in many forms – reinstituting a mandate waiver program, repealing mandates, or providing increased funding to cover associated costs – the time to provide meaningful relief is now.

Under the current system, the number of mandates school districts are required to comply with continues to rise while state funding to support those mandates falls behind. As a result, resources are being pulled away from educating students and local taxpayers are bearing an increased share of the cost.

As welcome as increased state funding would be, it is only one part of the solution. PSBA believes that significant savings, both in terms of dollars and efficiency, can be achieved by reducing the number of outdated or burdensome mandates placed on school districts or by granting school districts the ability to seek waivers of mandated requirements.

This report highlighted some of the key areas where relief could be accomplished. PSBA is calling on the state to capitalize on a golden opportunity to help school districts stabilize and reduce local taxes by allowing school districts cut the costs associated with these mandates.

The solutions presented in this report would go a long way toward allowing school districts to focus less on the challenge of balancing their budgets and more on their primary purpose of providing a quality education for all of their students.

400 Bent Creek Blvd.
Mechanicsburg, PA 17050-1873
(800) 932-0588 (717) 506-2450
www.psba.org





Founded in 1895, PSBA is the voice for public education and works for strong local school boards in the halls of the Capitol. The association is committed to supporting an effective child-centered public education that is adequately and equitably funded.

In October 2014, school directors voting at PSBA's Delegate Assembly selected four legislative priorities for the 2015-16 session of the General Assembly. This paper provides an in-depth discussion on the priority issue of mandate reform.