

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 6

Session of 2015

INTRODUCED BY SMUCKER, SCARNATI, AUMENT, WHITE, FOLMER, CORMAN, WARD, McGARRIGLE AND MENSCH, MAY 12, 2015

SENATOR SMUCKER, EDUCATION, AS AMENDED, JUNE 9, 2015

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for the establishment of
6 the Achievement School District and for its powers and
7 duties.

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

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

13 ARTICLE VI-B

14 ACHIEVEMENT SCHOOL DISTRICT

15 Section 601-B. Scope.

16 This article relates to establishment of the Achievement
17 School District.

18 Section 602-B. Legislative intent.

19 It is the intent of the General Assembly in enacting this
20 article to:

1 (1) Further meet its obligation to provide for a
2 thorough and efficient system of public education.

3 (2) Provide for the transformation of chronically
4 underperforming schools in order to ensure the delivery of
5 effective education to all students.

6 Section 603-B. Definitions.

7 The following words and phrases when used in this article
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Achievement School District." The Achievement School
11 District established in section 604-B.

12 "ASD." The Achievement School District.

13 "ASD board." The Board of Directors of the ASD.

14 "ASD school." An eligible school that is transferred to the
15 ASD in accordance with this article.

16 "Board of directors." A board of directors of a school
17 district.

18 "Department." The Department of Education of the
19 Commonwealth.

20 "Education management service provider." A for-profit or
21 nonprofit management organization, nonprofit charter management
22 organization, school design provider, business manager or any
23 other partner entity with which a school district contracts to
24 provide educational design, business services, comprehensive
25 management or personnel functions. The term does not include a
26 charter school foundation.

27 "Elementary school." Any school that is not a secondary
28 school.

29 "Eligible school." One school or one building within a
30 school district, a charter school or a cyber charter school

1 determined to be an eligible school under section 608-B.

2 "Executive director." The executive director of the ASD.

3 "Intervention school." An intervention school designated
4 under section 607-B.

5 "Secondary school." Any school with an eleventh grade.

6 "Secretary." The Secretary of Education of the Commonwealth.
7 Section 604-B. Achievement School District.

8 The Achievement School District is established. The ASD shall
9 function as a Statewide school district.

10 Section 605-B. ASD board.

11 (a) Appointment.--Within 60 days of the effective date of
12 this article, a board of directors of the ASD shall be appointed
13 as follows:

14 (1) The Governor shall appoint one member of the ASD
15 board.

16 (2) The President pro tempore of the Senate and the
17 Speaker of the House of Representatives shall each appoint
18 two members.

19 (3) The Minority Leader of the Senate and the Minority
20 Leader of the House of Representatives shall each appoint one
21 member.

22 (b) Term.--An ASD board member's term of office shall be
23 coterminous with the term of the appointing authority of the
24 member, except that a member shall continue to hold office until
25 a successor has been appointed and qualified. An ASD board
26 member may serve successive terms.

27 (c) Chairman.--The ASD board shall elect a chairman from its
28 membership.

29 (d) Meetings.--The ASD board shall meet twice a year.

30 (e) Removal from office.--No ASD board member shall be

1 removed from office during the member's term of office except in
2 accordance with the Constitution of Pennsylvania and as
3 authorized in this subsection. The Governor may, upon proof by
4 clear and convincing evidence of malfeasance or misfeasance in
5 office, remove an ASD board member prior to the expiration of
6 the term. Before an ASD board member is removed, the member
7 shall be provided with a written statement of the reasons for
8 removal and an opportunity for a hearing in accordance with 2
9 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
10 Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
11 review of Commonwealth agency action).

12 (f) Expiration of term of Governor's appointee.--Upon
13 expiration of the term of an ASD board member appointed by the
14 Governor, or the occurrence of a vacancy in the office of an ASD
15 board member appointed by the Governor, the Governor shall
16 appoint a successor member. An appointment to fill a vacancy
17 shall be for the balance of the unexpired term.

18 (g) Expiration of term of legislative appointee.--Upon
19 expiration of the term of an ASD board member who is a
20 legislative appointee, or the occurrence of a vacancy in the
21 office of an ASD board member who is a legislative appointee,
22 the appropriate legislative appointing authority shall appoint a
23 successor member. An appointment to fill a vacancy shall be for
24 the balance of the unexpired term.

25 (h) Prohibition.--No ASD board member may, while in the
26 service of the ASD, seek or hold a position as any other public
27 official within this Commonwealth or as an officer of a
28 political party.

29 (i) Compensation.--Members of the ASD board shall be
30 reimbursed for reasonable and necessary expenses incurred in the

1 performance of their official duties from the funds of the ASD.

2 (j) Executive director and other employees.--The ASD board
3 shall:

4 (1) Appoint an executive director and may suspend or
5 dismiss the executive director or any person acting in an
6 equivalent capacity.

7 (2) Bargain with employees of the ASD pursuant to
8 section 613-B(d).

9 (k) Executive director.--The executive director shall have
10 all remaining powers of the ASD, including the following:

11 (1) The authority to decide on the transfer of eligible
12 schools to the jurisdiction of the ASD.

13 (2) The power to authorize charter schools in accordance
14 with section 606-B(b).

15 (l) Budget.--The ASD board shall adopt an annual balanced
16 budget.

17 Section 606-B. Powers and duties of Achievement School
18 District.

19 (a) General rule.--Except as otherwise specifically provided
20 in this article, the ASD shall have the powers and duties of a
21 school district under this act.

22 (b) Charter schools.--The authority of the ASD to authorize
23 the grant of a charter to an applicant for a charter school and
24 the authority to convert a charter school shall be limited as
25 set forth in this section.

26 (c) Criteria for conversion.--Notwithstanding the provisions
27 of Article XVII-A, the ASD may convert a school under its
28 jurisdiction to a charter school.

29 (d) Required action.--The ASD shall take one or more of the
30 following actions in eligible schools within its jurisdiction:

1 (1) Replace the principal and at least 50% of the
2 professional staff.

3 (2) Contract with an education management service
4 provider to operate the school.

5 (3) Convert the school to a charter school.

6 (4) Close the school and facilitate the transfer of
7 students to higher performing schools.

8 (5) Authorize a new charter school and, notwithstanding
9 the provisions of Article XVII-A, provide admission
10 preference to students who reside in the area being served by
11 the eligible school. The ASD shall adopt criteria for the
12 authorization of charter schools that is consistent with the
13 criteria set forth by the National Association of Charter
14 School Authorizers.

15 (e) Limitations.--For the school year 2016-2017, the ASD
16 shall take one or more of the actions under subsection (d) in up
17 to five eligible schools. For the school year 2017-2018, and
18 each school year thereafter, the ASD shall take one or more of
19 the actions under subsection (d) in at least five, but no more
20 than 15, eligible schools. Notwithstanding subsection (d), the
21 number of schools under the jurisdiction of the ASD may not
22 exceed 75 at any one time.

23 (f) Charter schools.--Notwithstanding any provision of law
24 to the contrary, in accordance with section 1720-A, the ASD may
25 revoke or opt not to renew a charter school within its
26 jurisdiction. The nonrenewal or revocation may not be appealed
27 to the State Charter School Appeal Board. Any appeal of the
28 nonrenewal or revocation shall be to Commonwealth Court. For
29 appeal purposes only, the ASD shall be deemed a Commonwealth
30 agency.

1 (g) Authority to operate.--The ASD may directly operate a
2 school transferred to the ASD or contract with individuals or
3 education management service providers to manage the day-to-day
4 operations of a school transferred to the ASD, including, but
5 not limited to, providing direct services to students.

6 (h) Intermediate unit services.--The ASD may require an
7 intermediate unit to provide school support or student support
8 services for a school transferred from the intermediate unit's
9 jurisdiction, including, but not limited to, student
10 transportation, school food service, alternative schools and
11 special education services, in compliance with laws and
12 regulations governing such services. The ASD shall reimburse
13 actual costs incurred by the intermediate unit in providing the
14 services.

15 (i) Procurement.--Notwithstanding any law to the contrary,
16 the ASD has the same authority and autonomy afforded to a school
17 district under State law regarding the procurement of property,
18 goods and services, including, but not limited to, personal,
19 professional, consulting and social services.

20 (j) Waiver.--The ASD, or any entity the ASD contracts with
21 to operate or manage a school under the jurisdiction of the ASD,
22 may apply to the secretary for a waiver of any regulation or
23 statutory provision that inhibits the ability of the school to
24 increase student achievement. Notwithstanding this subsection,
25 the secretary may not waive rules related to the following:

- 26 (1) Federal and State civil rights.
- 27 (2) Federal, State and local health and safety.
- 28 (3) Federal and State public records.
- 29 (5) Possession of weapons on school grounds.
- 30 (6) Background checks and fingerprints of personnel.

1 (7) Federal and State special education requirements.

2 (8) Student due process.

3 (9) Parental rights.

4 (10) Federal and State student assessment and
5 accountability.

6 (11) Open meetings.

7 (k) Funding.--The ASD may seek, manage and expend Federal
8 money and grants and other funding with the same authority as a
9 school district.

10 (l) Taxing power.--The ASD has no authority to levy any tax.

11 Section 607-B. Intervention schools.

12 (a) Intervention school.--By December 29, 2015, and by
13 October 30 of each year thereafter, the department shall publish
14 a list of intervention schools. An elementary school or
15 secondary school whose academic performance is ranked in the
16 lowest 5% of its classification as an elementary school or
17 secondary school not under the jurisdiction of the ASD, as
18 measured by the Pennsylvania School Performance Profile, is
19 designated as an intervention school.

20 (b) Cyber charter school.--The charter for a cyber charter
21 school that is an intervention school is subject to nonrenewal
22 or revocation. The nonrenewal or revocation may not be appealed
23 to the State Charter School Appeal Board. Any appeal of the
24 nonrenewal or revocation shall be to Commonwealth Court.

25 (c) Powers of school board and School Reform Commission.--In
26 addition to the powers granted by law to school districts, and
27 notwithstanding any other law to the contrary, a board of
28 directors and the School Reform Commission under section 696
29 shall have the following powers as to intervention schools
30 within their respective school districts:

1 (1) To enter into agreements with persons or education
2 management service providers to operate an intervention
3 school. A school operated under this paragraph shall be
4 funded in accordance with the terms of the agreement.

5 (2) To employ professional and senior management
6 employees who do not hold State certification if the board of
7 directors has approved the qualifications of the person at a
8 salary established by the board of directors.

9 (3) To enter into agreements with persons or education
10 management service providers providing educational or other
11 services to an intervention school. Services provided under
12 this paragraph shall be funded in accordance with the terms
13 of the agreement.

14 (4) Notwithstanding any other provision of this article,
15 to close or reconstitute an intervention school, including
16 the reassignment, suspension or dismissal of professional
17 employees.

18 (5) To suspend professional employees without regard to
19 the provisions of seniority.

20 (6) To appoint managers, administrators or education
21 management service providers to oversee the operations of an
22 intervention school.

23 (7) To delegate to a person, including an employee of
24 the school district or an education management service
25 provider, powers it deems necessary to carry out the purposes
26 of this article, subject to the supervision and direction of
27 the board of directors.

28 (8) To transfer a school within the school district
29 meeting the standard of subsection (a) to the ASD.

30 (9) To transfer a charter school authorized by the

1 school district to the ASD if the charter school meets the
2 standards of subsection (a).

3 SECTION 607.1-B. COMMUNITY ADVISORY COMMITTEES.

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4 (A) ESTABLISHMENT.--WITHIN 30 DAYS AFTER A SCHOOL IS
5 DESIGNATED AS AN INTERVENTION SCHOOL PURSUANT TO SECTION 607-B,
6 THE BOARD OF DIRECTORS OR THE SCHOOL REFORM COMMISSION SHALL
7 ESTABLISH A COMMUNITY ADVISORY COMMITTEE.

8 (B) COMPOSITION.--A COMMUNITY ADVISORY COMMITTEE SHALL
9 CONSIST OF THE FOLLOWING MEMBERS APPOINTED BY THE EXECUTIVE
10 DIRECTOR:

11 (1) THREE PARENTS OF STUDENTS ATTENDING THE INTERVENTION
12 SCHOOL.

13 (2) THREE RESIDENTS OF THE AREA BEING SERVED BY THE
14 INTERVENTION SCHOOL.

15 (C) FUNCTION.--THE SOLE FUNCTION OF A COMMUNITY ADVISORY
16 COMMITTEE SHALL BE TO PROVIDE RECOMMENDATIONS AND FEEDBACK TO
17 THE BOARD OF DIRECTORS OR THE SCHOOL REFORM COMMISSION ON THE
18 DEVELOPMENT OF THE INTERVENTION SCHOOL AND THE IMPLEMENTATION OF
19 ACTIONS TAKEN BY THE BOARD OF DIRECTORS OR THE SCHOOL REFORM
20 COMMISSION.

21 (D) COMPENSATION PROHIBITED.--MEMBERS OF A COMMUNITY
22 ADVISORY COMMITTEE SHALL RECEIVE NO COMPENSATION FOR THEIR
23 SERVICES.

24 (E) MEETINGS.--A COMMUNITY ADVISORY COMMITTEE SHALL MEET AT
25 LEAST MONTHLY TO DISCUSS THE DEVELOPMENT OF THE INTERVENTION
26 SCHOOL AND THE IMPLEMENTATION OF ACTIONS TAKEN BY THE BOARD OF
27 DIRECTORS OR THE SCHOOL REFORM COMMISSION. MEETINGS OF A
28 COMMUNITY ADVISORY COMMITTEE SHALL BE IN ACCORDANCE WITH 65
29 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

30 (F) TERMINATION.--A COMMUNITY ADVISORY COMMITTEE SHALL

1 TERMINATE WHEN THE SCHOOL DESIGNATED AS AN INTERVENTION SCHOOL
2 IS NO LONGER RANKED IN THE LOWEST 5% OF ITS CLASSIFICATION AS AN
3 ELEMENTARY SCHOOL OR SECONDARY SCHOOL.

4 Section 608-B. Eligible schools.

5 (a) Publication.--By December 29, 2015, and by October 31 of
6 each year thereafter, the department shall publish a list of
7 eligible schools pursuant to subsection (b)(1).

8 (b) Standards.--Except as set forth in subsection (c), a
9 school not under the jurisdiction of the ASD meeting any one of
10 the following standards is an eligible school for transfer to
11 the ASD:

12 (1) An elementary or secondary school whose academic
13 performance as measured by the Pennsylvania School
14 Performance Profile for two consecutive years beginning in
15 school year 2013-2014 is ranked in the lowest 1% of its
16 classification as an elementary school or a secondary school.

17 (2) A school which would qualify as an intervention
18 school for three consecutive years beginning in school year
19 2013-2014.

20 (3) An intervention school for which more than 50% of
21 the parents or guardians of students attending the school
22 have signed a petition in support of the school being
23 transferred to the ASD.

24 (c) Limitations.--No school shall be eligible for transfer
25 to the ASD if:

26 (1) The school is located in a school district governed
27 by an appointed receiver.

28 (2) The school has been converted to a charter school
29 within the past three years.

30 (3) The school initially opened within the past three

1 years.

2 (4) The school exclusively serves a historically
3 underserved population, including, but not limited to,
4 returning truants, homeless students, students with
5 disabilities or adjudicated minors.

6 (5) The school has a college matriculation rate that
7 meets or exceeds the local school district average.

8 (6) The school is a charter school whose academic
9 performance as measured by the Pennsylvania School
10 Performance Profile exceeds the average Pennsylvania School
11 Performance Profile for schools in the authorizing school
12 district.

13 Section 609-B. Transfer to ASD.

14 (a) General rule.--The executive director may transfer an
15 eligible school to the jurisdiction of the ASD after providing
16 notice to the transferring district or transferring charter
17 school.

18 (b) Objection by school district.--The school district of
19 the eligible school subject to transfer may object to a transfer
20 based on the criteria set forth in section 608-B. An objection
21 and reasons for the objection must be filed with the ASD within
22 30 days of the notice in subsection (a).

23 (c) Objection by charter school.--If the eligible school
24 subject to transfer is a charter school, the charter school may
25 object to the transfer based on the criteria set forth in
26 section 608-B. An objection and reasons for the objection must
27 be filed with the ASD within 30 days of the notice in subsection
28 (a).

29 (d) Public hearing.--Within 30 days of receipt of an
30 objection by a school district or charter school, the ASD shall

1 hold a public hearing on the objection and shall receive public
2 testimony during the hearing.

3 (e) Decision by ASD.--Within 60 days of the public hearing,
4 the ASD shall make a final decision in accordance with the
5 criteria set forth in section 608-B.

6 (f) Appeal.--An objecting party under this section shall
7 have a right of appeal to Commonwealth Court.

8 (g) Decision final.--If no objection under this section is
9 filed within the required period, the decision to transfer under
10 this section shall be final.

11 SECTION 609.1-B. COMMUNITY ADVISORY COMMITTEES. <--

12 (A) ESTABLISHMENT.--WITHIN 30 DAYS AFTER A SCHOOL IS
13 TRANSFERRED TO THE ASD PURSUANT TO SECTION 609-B, THE EXECUTIVE
14 DIRECTOR SHALL ESTABLISH A COMMUNITY ADVISORY COMMITTEE.

15 (B) COMPOSITION.--A COMMUNITY ADVISORY COMMITTEE SHALL
16 CONSIST OF THE FOLLOWING MEMBERS APPOINTED BY THE EXECUTIVE
17 DIRECTOR:

18 (1) THREE PARENTS OF STUDENTS ATTENDING THE ASD SCHOOL.

19 (2) THREE RESIDENTS OF THE AREA BEING SERVED BY THE ASD
20 SCHOOL.

21 (C) FUNCTION.--THE SOLE FUNCTION OF A COMMUNITY ADVISORY
22 COMMITTEE SHALL BE TO PROVIDE RECOMMENDATIONS AND FEEDBACK TO
23 THE EXECUTIVE DIRECTOR, OR A REPRESENTATIVE OF THE EXECUTIVE
24 DIRECTOR, ON THE DEVELOPMENT OF THE ASD SCHOOL AND THE
25 IMPLEMENTATION OF ACTIONS TAKEN BY THE ASD.

26 (D) COMPENSATION PROHIBITED.--MEMBERS OF A COMMUNITY
27 ADVISORY COMMITTEE SHALL RECEIVE NO COMPENSATION FOR THEIR
28 SERVICES.

29 (E) MEETINGS.--A COMMUNITY ADVISORY COMMITTEE SHALL MEET AT
30 LEAST MONTHLY TO DISCUSS THE DEVELOPMENT OF THE ASD SCHOOL AND

1 THE IMPLEMENTATION OF ACTIONS TAKEN BY THE ASD. MEETINGS OF A
2 COMMUNITY ADVISORY COMMITTEE SHALL BE IN ACCORDANCE WITH 65
3 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

4 (F) TERMINATION.--A COMMUNITY ADVISORY COMMITTEE SHALL
5 TERMINATE WHEN THE ASD SCHOOL IS RETURNED TO THE JURISDICTION OF
6 THE SCHOOL DISTRICT PURSUANT TO SECTION 610-B.

7 Section 610-B. Transfer from ASD.

8 (a) Length of transfer.--An ASD school shall remain under
9 the jurisdiction of the ASD for a minimum of five years.

10 (b) Return to jurisdiction of school district.--After the
11 minimum time set forth in subsection (a), the ASD may transfer
12 an ASD school to the jurisdiction of its school district of
13 origin if, for two consecutive years, the ASD school does not
14 meet the criteria necessary to be deemed an intervention school.

15 (c) Restrictions.--The ASD may not transfer an ASD school to
16 the jurisdiction of its school district of origin if the school
17 district has been declared in distress in accordance with
18 Article VI or VI-A, or if 51% of the parents or guardians of the
19 students enrolled in the ASD school sign a petition requesting
20 that the school remain under the jurisdiction of the ASD.

21 (d) Charter schools.--Upon approval of the executive
22 director, a charter school under the jurisdiction of the ASD may
23 retain the ASD as its authorizer under Article XVII-A.

24 Section 611-B. Payments and funding.

25 (a) Tuition.--Tuition may not be charged for a resident or
26 nonresident student attending an ASD school.

27 (b) Funding.--Funding for the ASD shall be provided as
28 follows:

29 (1) For nonspecial education students, the ASD shall
30 receive for each student enrolled no less than the budgeted

1 total expenditure per average daily membership of the prior
2 school year, as defined in section 2501(20), minus the
3 budgeted expenditures of the district of residence for
4 nonpublic school programs; adult education programs;
5 community/junior college programs; student transportation
6 services; special education programs; facilities acquisition,
7 construction and improvement services; and other financing
8 uses, including debt service and fund transfers as provided
9 in the Manual of Accounting and Related Financial Procedures
10 for Pennsylvania School Systems established by the
11 department. This amount shall be paid by the district of
12 residence of each student.

13 (2) For special education students, the ASD shall
14 receive for each student enrolled the same funding as for
15 each nonspecial education student as provided in paragraph
16 (1), plus an additional amount determined by dividing the
17 district of residence's total special education expenditure
18 by the product of multiplying the combined percentage of
19 section 2509.5(k) times the district of residence's total
20 average daily membership for the prior school year. This
21 amount shall be paid by the district of residence of each
22 student.

23 (3) The ASD may request the intermediate unit in which
24 the ASD school is located to provide services to assist the
25 ASD to address the specific needs of exceptional students.
26 The intermediate unit shall assist the ASD and bill the ASD
27 for the services. The intermediate unit may not charge the
28 ASD more for any service than it charges the constituent
29 districts of the intermediate unit.

30 (4) Payments shall be made to the ASD in 12 equal

1 monthly payments, by the fifth day of each month, within the
2 operating school year. A student enrolled in an ASD school
3 shall be included in the average daily membership of the
4 student's district of residence for the purpose of providing
5 basic education funding payments and special education
6 funding under Article XXV. If a school district fails to make
7 a payment to the ASD as prescribed in this paragraph, the
8 secretary shall deduct the estimated amount, as documented by
9 the ASD, from any and all State payments made to the district
10 after receipt of documentation from the ASD.

11 (5) Within 30 days after the secretary makes the
12 deduction described in paragraph (4), a school district may
13 notify the secretary that the deduction made from State
14 payments to the district under this subsection is inaccurate.
15 The secretary shall provide the school district with an
16 opportunity to be heard concerning:

17 (i) whether the ASD documented that its students
18 were enrolled in the ASD;

19 (ii) the period of time during which each student
20 was enrolled;

21 (iii) the school district of residence of each
22 student; and

23 (iv) whether the amounts deducted from the school
24 district were accurate.

25 (c) Donations.--The ASD may accept donations of money,
26 property or securities from any source for the benefit of the
27 ASD and ASD schools. A donation shall, in good faith, be
28 disbursed in accordance with the conditions of the donation.

29 (d) Appropriations.--The General Assembly shall appropriate
30 funds as it deems necessary to pay the costs for the

1 implementation and ongoing operation of the ASD.

2 (e) Administrative fee.--Each ASD school shall be assessed
3 an annual administrative fee of no more than 3% of its basic
4 education funding allocation. Fees collected shall be used for
5 administrative costs incurred by the ASD.

6 Section 612-B. Facilities.

7 Subject to a lease or license at no more than fair market
8 rates, the ASD shall have the right to use any school building
9 and all facilities and property otherwise part of the ASD school
10 and recognized as part of the facilities or assets of the school
11 prior to its transfer to the ASD and shall have access to
12 additional facilities as were typically available to the school,
13 its students, faculty and staff prior to its transfer to the
14 ASD. Extensive repairs to buildings or facilities considered
15 capital expenses shall be the responsibility of the transferring
16 school district and not the ASD. Any fixtures, improvements or
17 tangible assets added to a school building or facility by the
18 ASD shall remain at the school building or facility upon the
19 school being returned to the jurisdiction of the transferring
20 school district.

21 Section 613-B. Employees.

22 (a) Direct operation by ASD.--An employee hired to work in
23 an ASD school directly operated by the ASD shall be deemed an
24 employee of the ASD, and the employees shall be under the
25 exclusive control of the ASD. The ASD shall develop written
26 procedures for employment and management of personnel as well as
27 the development of compensation and benefit plans. Within the
28 limits of the budget, staffing needs of any ASD school shall be
29 exclusively determined by the ASD.

30 (b) Employee transfers.--The ASD, or an entity under

1 contract to operate an ASD school, may determine whether an
2 employee who is assigned to a school prior to the school's
3 transfer to the ASD may opt to continue as an employee of the
4 ASD or the operating entity. If an employee is not provided the
5 option, the employee shall be retained as an employee of the
6 transferring school district. If an employee accepts the option,
7 the employee may, at the discretion of the transferring school
8 district, return to the employ of the school district, if the
9 ASD or operating entity later determines not to continue
10 employment.

11 (c) Certification.--At least 75% of the professional staff
12 members of an ASD school shall hold appropriate State
13 certification.

14 (d) Collective bargaining.--Employees of an ASD school may
15 organize under the act of July 23, 1970 (P.L.563, No.195), known
16 as the Public Employe Relations Act. The ASD board shall be
17 considered an employer for the purposes of Article XI-A. Upon
18 formation of one or more collective bargaining units at the
19 school, the ASD board shall bargain with the employees based on
20 the provisions of this article, Article XI-A and the Public
21 Employe Relations Act. Collective bargaining units at an ASD
22 school shall be separate from any collective bargaining unit of
23 the transferring school district.

24 (e) Retirement.--All employees of the ASD shall be enrolled
25 in the Public School Employees' Retirement System in the same
26 manner as set forth in 24 Pa.C.S. § 8301(a) (relating to
27 mandatory and optional membership) unless the ASD provides for a
28 federally qualified retirement plan. The Commonwealth shall make
29 contributions on behalf of the ASD employees enrolled in the
30 Public School Employees' Retirement System. The ASD shall be

1 considered a school district and shall make payments by
2 employers to the Public School Employees' Retirement System and
3 payments on account of Social Security as established under 24
4 Pa.C.S. Pt. IV (relating to retirement for school employees).
5 The market value/income aid ratio used in calculating payments
6 as prescribed in this subsection shall be the market
7 value/income aid ratio for the school district from which the
8 school is transferred to the ASD. Except as otherwise provided,
9 employees of the ASD shall make regular member contributions as
10 required for active members under 24 Pa.C.S. Pt. IV. If the
11 employees of the ASD participate in another retirement plan,
12 then those employees shall have no concurrent claim on the
13 benefits provided to public school employees under 24 Pa.C.S.
14 Pt. IV. For purposes of this subsection, the ASD shall be deemed
15 to be a public school as defined in 24 Pa.C.S. § 8102 (relating
16 to definitions).

17 (f) Health care benefits.--Every employee of the ASD shall
18 be provided the same or comparable health care benefits as the
19 employee would be provided if he were an employee of the
20 transferring district.

21 (g) Sick leave.--Any employee of a public school who is
22 given and accepts the offer of employment with the ASD shall
23 retain any accumulated sick leave in the position with the ASD.

24 (h) Leave of absence.--A public school employee of a school
25 entity may request a leave of absence for up to five years in
26 order to work at the ASD. Approval of a leave of absence shall
27 not be unreasonably withheld.

28 (i) Tenure.--A temporary professional employee on leave from
29 a school district may accrue tenure in the transferring school
30 system at the discretion of the transferring school district in

1 the same manner as the employee would under Article XI if the
2 employee had continued to be employed by the school district. A
3 professional employee on leave from a school district shall
4 retain tenure rights, as defined in Article XI, in the school
5 entity from which the employee transferred. No temporary
6 professional employee or professional employee shall have tenure
7 rights as against the ASD. A temporary professional employee and
8 professional employee shall continue to accrue seniority in the
9 school district from which the employee transferred if the
10 employee returns to the school district upon termination of the
11 leave.

12 (j) Service requirements for certificates.--Professional
13 employees who hold a first level teaching or administrative
14 certificate may, at their option, have the time completed in
15 satisfactory service in the ASD applied to the length of service
16 requirements for the next level of certification.

17 (k) Return to school district.--A temporary professional
18 employee or professional employee who leaves the employ of the
19 ASD shall have the right to return to a comparable position for
20 which the person is properly certified in the school district
21 which granted the leave of absence. In the case where a teacher
22 has been dismissed by the ASD, the ASD shall provide to the
23 school district which granted the leave of absence the following
24 information:

25 (1) The reason for the dismissal at the time it
26 occurred.

27 (2) A list of any witnesses who were relied upon by the
28 ASD in moving for dismissal.

29 (3) A description of and access to any physical evidence
30 used by the ASD in moving for dismissal.

1 (4) A copy of any record developed at any dismissal
2 proceeding conducted by the ASD. The record of any hearing
3 may be admissible in a hearing before the school district
4 which granted the leave of absence.

5 (l) Authority of school directors.--Nothing in this section
6 shall affect the authority of a board of directors to initiate
7 proceedings under Article XI if the board of directors
8 determines that occurrences at the ASD leading to dismissal of a
9 professional employee constitute adequate and independent
10 grounds for discipline under section 1122.

11 (m) Criminal history record and child abuse clearance.--No
12 temporary employee or professional employee who leaves the
13 employ of the ASD shall be returned to a position in the school
14 district which granted his leave of absence until the school
15 district is in receipt of a current criminal history record
16 under section 111 and the official statement regarding child
17 injury or abuse from the Department of Human Services as
18 required by 23 Pa.C.S. Ch. 63 (relating to child protective
19 services).

20 (n) Criminal history record information.--Prior to beginning
21 employment with the ASD, an individual who has direct contact
22 with children shall be required to submit a report of criminal
23 history record information as provided for in section 111. This
24 subsection shall also apply to an individual who volunteers to
25 work on a full-time or part-time basis at the ASD.

26 (o) Child abuse clearance.--An applicant for a position as
27 an ASD school employee shall be required to submit the official
28 statement regarding child injury or abuse from the Department of
29 Human Services as provided in 23 Pa.C.S. Ch. 63. This subsection
30 shall also apply to any individual who volunteers to work on a

1 full-time or part-time basis at the ASD.

2 Section 614-B. Student enrollment.

3 Any student eligible under this section has the right to
4 attend the ASD school for which the student is eligible,
5 notwithstanding any other provision of law to the contrary.

6 Section 615-B. Oversight.

7 Annually, the ASD shall submit a written report to the
8 secretary and the presiding officers of the Senate and the House
9 of Representatives. The report shall include:

10 (1) A listing and description of the status, including
11 academic performance, of each school whose jurisdiction has
12 been transferred to the ASD since the submittal of the
13 preceding report.

14 (2) A justification for each school determined to be an
15 eligible school that is not transferred to the ASD.

16 Section 2. This act shall take effect immediately.