

No. 1988-11

AN ACT

SB 1068

Defining and providing for the licensing and regulation of private academic schools; reestablishing the State Board of Private Academic Schools; imposing penalties; and making repeals.

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

Section 1. Short title.

This act shall be known and may be cited as the Private Academic Schools Act.

Section 2. Definitions.

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

“Annual.” Twelve months from the date of initial licensure.

“Board.” The State Board of Private Academic Schools.

“Department.” The Department of Education of the Commonwealth.

“Private academic school” or “school.” A school maintained, or classes conducted, for the purpose of offering instruction for a consideration, profit or tuition to five or more pupils at one and the same time, or to 25 or more pupils during any school year, the purpose of which is to educate an individual generally or specially or to prepare an individual for more advanced study, and shall include all schools engaged in such education, except private trade schools, private business schools, private correspondence schools, private music schools, private dance schools, private art schools, private dramatic art schools, private schools of charm or poise, private driver training schools or any type of private school which is nonacademic in character.

“Secretary.” The Secretary of Education of the Commonwealth.

Section 3. State Board of Private Academic Schools.

(a) Establishment of board.—There is hereby created within the department a departmental administrative board to be known as the State Board of Private Academic Schools. The board shall consist of nine members, who shall be appointed by the secretary. The composition of the board shall include at least one parent of a student in a licensed academic school. The terms of appointment shall be for three years.

(b) Quorum.—Five members of the board shall constitute a quorum. The board shall select annually a chairperson from among its members.

(c) Administrative support.—Administrative support for the board shall be provided by the department in accordance with section 214 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The department shall periodically consult with the board regarding its administrative needs.

(d) Compensation and expenses.—Members of the board shall receive \$60 per diem for each day actually devoted to work of the board. The members shall be reimbursed for reasonable travel, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(e) Forfeiture of membership.—A member who fails to attend three consecutive board meetings shall forfeit membership on the board unless the secretary, upon written request from the member, determines that the member shall be excused from a meeting or meetings for reasons of illness or death of a family member.

(f) Meetings and records.—The board shall meet at such times and places as it shall determine is necessary for the proper conduct of its work. Special meetings may be called by the chairperson or at the request of a majority of the members of the board dependent upon the availability of funds to cover costs. Board records and administrative records for private academic schools shall be maintained in Harrisburg.

(g) Documents.—Certificates of licensure and other official documents approved by the board shall be issued by the department.

Section 4. Powers and duties of board.

(a) Licensure, policies, etc.—The board shall have the power and its duty shall be to approve or disapprove the initial and renewal licensure of schools;

to suspend or revoke the licensure of schools; to establish qualifications for teachers, professional staff and directors; to adopt broad policies and principles and to establish standards, rules and regulations. The regulations shall provide for a method of school closure.

(b) Disposition of student records.—The board shall require every applicant for initial licensure to provide a written statement describing arrangements for disposition of student records in the event of closure. It shall be the duty of the board and the department to assist in the execution of the arrangements when necessary.

(c) Enforcement by department.—The regulations promulgated by the board shall be enforced by the department. The department may submit to individual experts for review, programs and courses and financial statements proposed or offered by a school.

Section 5. Optional licensing of private schools.

Licensing shall not apply to colleges or universities, to schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged, to schools or classes owned or operated by or under the authority of bona fide religious institutions or by the Commonwealth or any political subdivision thereof, to schools for the blind or deaf receiving Commonwealth appropriations, or to schools accredited by accrediting associations approved by the State Board of Education, but such schools may choose to apply for a license and, upon approval and issuance thereof, shall be subject to the provisions of this act.

Section 6. Mandatory licensing of private academic schools.

A private academic school requiring licensure shall not operate within this Commonwealth unless the school has obtained from the board a license issued in the prescribed manner and form.

Section 7. Application for license.

(a) General rule.—Before any license is issued to a private academic school, a verified application shall be made, in writing, to the board on a form prepared and furnished by the department.

(b) Application contents.—The application shall require a statement showing:

(1) The title or name and address of the school, grades and classes, together with the name of the owners and controlling officers.

(2) The specific fields of instruction which will be offered and the purposes of such instruction.

(3) The place where instruction will be given.

(4) A specific listing of the equipment and instructional materials available for instruction in the school.

(5) The maximum enrollment to be accommodated at the school.

(6) The qualifications of teachers, professional staff and director.

(7) Financial resources available to equip and maintain the school.

(8) An agreement to abide by reasonable service and business ethics prescribed by the board.

(9) Any additional information the board may deem necessary to enable it to determine the adequacy of the program of instruction and related matters.

An application must be completed for board consideration.

(c) Financial responsibility.—Each private academic school shall demonstrate to the board that it has adequate resources or forms of surety available for the purpose of reimbursing unearned tuition due students whenever the licensed school ceases to operate. The form of financial responsibility or surety established by the private licensed school shall be subject to approval by the board. The board shall promulgate regulations under this act establishing the levels and forms of financial responsibility or surety that the private licensed school is permitted to establish.

Section 8. Issuance and renewal of license.

(a) General rule.—The department shall issue an original license to the applicant if the board finds that the application and the school for which a license is sought comply with the provisions of this act and with the rules and regulations promulgated under this act.

(b) Duration and renewal.—Each original school license issued shall be effective from the date of issue until the same date of the month of original issue the following year and shall be renewed annually thereafter on a form prepared and furnished by the department.

(c) License not transferable.—Each private academic school shall have a separate license which shall not be transferable.

Section 9. Licenses restricted.

Any license issued to a private academic school shall restrict a private academic school to the program, courses or grades specifically indicated in the application for a license. A private academic school shall present a required supplementary application for approval of change of location, additional programs, courses or grades in which it desires to offer instruction during the effective period of its license.

Section 10. License fees.

(a) General rule.—The board shall adopt regulations establishing a fee schedule for the original school license and the annual school license renewal. Those fees shall be based upon enrollment criteria and category of license.

(b) Disposition of fees.—License fees shall be placed in the General Fund.

(c) Fee not refundable.—If a license is denied, suspended or revoked, the license fee shall not be refunded. If the board determines that a license is not required, the license fee may be refunded.

Section 11. Directory of private academic schools.

The department shall maintain a list of private academic schools which shall be available to the public.

Section 12. Requirements for licensure and operation.

(a) Inspection.—No private academic school may be granted a license or permitted to continue to operate under a granted license unless it permits the board and its representatives to inspect the school or classes and makes available to the board, at any time when requested to do so, full information pertaining to the operation of the school.

(b) **Display of license.**—The school shall prominently display on the premises the current approved license where it may be inspected by students, visitors and designated officials of the board.

(c) **Advertising and representations.**—

(1) The advertising and representations made by any person representing the school or classes shall neither misrepresent any fact relating to the school nor mislead prospective students.

(2) A school shall not use any name, other than its licensed name, for advertising or publicity purposes. A school shall not advertise or imply that it is “supervised,” “recommended,” “endorsed,” “accredited” or “approved” by the secretary, the department or the board.

(3) A school shall not claim or imply that it is endorsed by colleges, universities or other institutions of higher learning.

(4) A school shall not claim or imply that it will guarantee admission to any educational institution or employment upon completion of its course or program.

(5) A school shall not, by means of blind advertisements or advertisements in the help wanted or other employment columns of newspapers and other publications, solicit prospective students to enroll in the school.

(d) **Condition of premises.**—The premises, equipment and conditions of the school or classes shall be adequate, safe and sanitary in accordance with standards of the Commonwealth or any of its political subdivisions that are applicable to the premises and equipment.

Section 13. Enforcement, refusal, suspension or revocation of license.

(a) **General rule.**—The board shall have the power to take appropriate necessary action for the enforcement of its policies, rules and regulations.

(b) **Refusal to issue, suspension of and revocation of license.**—The board shall have the power to refuse to issue, suspend or revoke a license if it finds that:

(1) The licensee has violated any of the provisions of this act or any of the rules and regulations of the board.

(2) The applicant or licensee has knowingly presented to the board false, incomplete or misleading information relating to licensure.

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime constituting a misdemeanor or felony by a judge or jury in any state or Federal court.

(4) The applicant or licensee has failed or refused to permit the board or its representatives to inspect the school or classes or has failed or refused to make available to the board, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the operation of the private academic school.

(5) The applicant has failed or refused to submit to the board an application for license or renewal in the manner and form prescribed.

(6) A private academic school has failed or refused to prominently display on the school’s premises the current approved license where it may be inspected by students, visitors or designated officials of the board.

(7) The applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary in accordance with such standards of the Commonwealth or any of its political subdivisions that are applicable to the premises and equipment.

(8) The licensee has perpetrated fraud or deceit in written or oral advertising of the school or classes or in presenting to prospective students written or oral information relating to the school or classes, employment opportunities or opportunities for enrollment in institutions of higher learning.

(9) The licensee has failed to provide and maintain adequate premises, equipment, instructional materials or supplies or has exceeded the maximum enrollment for which the school was licensed.

(10) The licensee has failed to provide and maintain adequate standards of instruction or an adequate number of qualified teachers, professional staff and a director.

(11) The applicant or licensee is unable to provide and maintain financial resources in sufficient amount to equip and maintain adequately and effectively the school or classes.

(12) The licensee has moved the school into new premises or facilities without notifying the board and before receiving approval from the board.

(13) The licensee has offered instruction in programs or courses which have not been approved and authorized by the board.

(14) There was a change in the ownership of the school without notification to and approval from the board.

(15) The school was operated or conducted under an ownership arrangement not approved by the board.

(16) The licensee has had the license of a school suspended or revoked in this Commonwealth or in another state.

(c) Adjudicatory procedure.—The procedure to be followed in the refusal, suspension and revocation of licenses and in appeals taken from those actions shall be in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(d) Reinstatement of license.—Unless directed to do so by court order, the board shall not, for a period of five years following revocation, reinstate the license of a private academic school which has been revoked. The school shall be required to reapply as a new licensee in accordance with the provisions of this act.

Section 14. Promulgation of rules and regulations.

The board shall promulgate rules and regulations necessary to carry out the purposes of this act. The rules and regulations of the State Board of Private Academic Schools in force on the effective date of this act, and not countermanded by this act, shall remain in effect until repealed or amended by the board, but not for a period of more than one year.

Section 15. Penalties.

(a) Summary offense.—A person who violates or fails to comply with this act or a rule, regulation or standard promulgated under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300.

(b) Civil penalty.—In addition to any other penalty provided in this act, the board may, by a majority vote of its statutorily authorized membership, levy a civil penalty of up to \$1,000 on any licensee who violates any provision of this act or any person who operates a private academic school without being properly licensed under this act. Prior to the collection of the penalty, the licensee or person shall have access to the hearing procedure provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 16. Existing licenses to remain in force.

Licenses issued by the State Board of Private Academic Schools prior to the effective date of this act shall remain in force for the period of the license.

Section 17. Repeals.

The following acts and parts of acts are repealed:

Sections 455 and 606-A(1) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Act of June 25, 1947 (P.L.951, No.401), entitled, as amended, "An act defining and providing for the licensing and regulation of private academic schools; conferring powers and imposing duties on the State Board of Private Academic Schools; and imposing penalties."

Section 18. Reestablishment of board.

This act, with respect to the State Board of Private Academic Schools, constitutes the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 19. Existing members to continue to serve.

The present members of the existing State Board of Private Academic Schools, as of December 31, 1987, shall continue to serve as members until their present terms of office expire and until their successors are appointed and qualified.

Section 20. Existing fees to remain in effect.

Each fee of the State Board of Private Academic Schools in effect on December 31, 1987, shall remain in effect until repealed or amended by the board.

Section 21. Retroactivity.

This act shall be retroactive to January 1, 1988, if enacted after that date.

Section 22. Effective date.

This act shall take effect January 1, 1988.

APPROVED—The 28th day of January, A. D. 1988.

ROBERT P. CASEY