



## **PAGE Legislative Updates Spring 2023**

**Note:** The content and links in this PAGE Legislative Update are for informational purposes only.

### **PA Education Funding Lawsuit Final Ruling**

On February 7, 2023, in a historic victory for students, Commonwealth Court Judge Renee Cohn Jubelier ruled that Pennsylvania's school funding system is unconstitutional and must be reformed.

In a 786-page decision, the court found that, "All witnesses agree that every child can learn. It is now the obligation of the Legislature, Executive Branch, and educators, to make the constitutional promise a reality in this Commonwealth."

The link to read the full decision is [02.07.23-Memorandum-Opinion-Filed-pubintlw.pdf](#)

**Source:** [News — FundOurSchoolsPA.org](#)

**Source:** [Trial — FundOurSchoolsPA.org](#)

### **PA Senate Bill 224**

As local school districts scramble to find teachers and substitute teachers, a bill that would make it easier for out-of-state educators to work in Pennsylvania has received unanimous support from lawmakers thus far.

State Sen. Camera Bartolotta, R-Washington, is co-sponsoring the bill, which now awaits House and gubernatorial approval.

"This is not a partisan issue," Bartolotta said. "This is not an Eastern Pennsylvania vs. Western Pennsylvania issue. This is statewide. Every single legislator has been hearing from their school districts the same sad song."

The bill was laid on the table on July 1, 2022. No movement to date.

The legislation would:

- Give in-state certification eligibility to out-of-state candidates who have completed a Pennsylvania-approved educator preparation program.
- Grant certification to those who hold a certificate issued by the National Board for Professional Teaching Standards.



- Require the Pennsylvania Department of Education to recognize and accept out-of-state candidates' qualifying scores on equivalent content tests toward PDE's testing and certification requirements.

**Source:** [PA teacher shortage: Legislation might make certification easier \(poconorecord.com\)](https://poconorecord.com)

**Source:** <https://edernet.org/2022/05/30/pennsylvania-out-of-state-teachers-will-be-able-to-teach-in-schools-bill-signed-to-address-teacher-shortage/>

### **PA Senate Bill 1277**

[Senate Bill 1277](#) would require districts to identify sexually explicit content in school curriculum and materials and notify parents that their child's coursework includes such content. The Act amends the Act of March 10, 1949 (P.L.30, No.14), known as the Public-School Code of 1949, in terms and courses of study, providing for parental notification relating to instructional materials and books containing sexually explicit content. This bill was referred to the House Education Committee on June 30, 2022. The roll call on SB 1277 in the PA Senate was 30 yes votes to 20 no votes. The bill is now in the PA House of Representatives for consideration.

### **PA Senate Bill 1278**

[Senate Bill 1278](#) would prohibit classroom instruction on gender identity and sexual orientation for pre-kindergarten through fifth-grade students, consistent with the timeline for when the existing academic standards on general sex education begins in sixth grade.

This Act amends the Act of March 10, 1949 (P.L.30, No.14), known as the Public-School Code of 1949, providing for student well-being. This bill was referred to the House Education Committee on June 30, 2022. The PA Senate voted 29-21 to pass the *Empowering Families in Education Act*. The bill is now in the PA House of Representative for consideration.

### **PA House Bill 2929**

On October 7, 2022, Representative Christopher M. Rabb introduced House Bill 2929. According to a statement by Representative Rabb, "PA has become the state with the second highest number of books banned from school libraries and curriculum by school boards." Representative Rabb reported that these book bans are an attempt to censor educators and restrict the information and educational materials that students can have access to in school.

This bill would establish uniform procedures that school boards follow before they can simply eliminate access to books for students. The proposed legislation would establish a process that school boards must go through before voting to ban from the school districts' libraries and curriculum. The forthcoming legislation would require the Pennsylvania Department of Education and school board participate in at least two public hearings on the book in question, which will be moderated by professionals with ample knowledge on the book and its contents, prior to the school board initiating a vote to ban it. This legislation will ensure the voices of a



district's teachers, students, and community members are adequately heard when making these important decisions. This bill was referred to the Education Committee on November 29, 2022. No further movement to date.

**Source:**

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20210&cosponId=37796>

**The Students' Access to Freedom & Educational Rights (SAFER) Act**

Legislation to strengthen civil rights protections against harassment in schools, including improved Title IX policies, has now been introduced in both houses of Congress.

[The Students' Access to Freedom & Educational Rights Act \(SAFER\) Act](#) would amend the standards for harassment lawsuits brought under Title IX of the Education Amendments of 1972 (Title IX) and create additional protections for students who experience sex-based harassment. Read more about the SAFER Act [here](#).

**Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance**

The U.S. Department of Education released a Notice of Proposed Rulemaking (NPRM) on athletic eligibility under Title IX to advance Title IX's longstanding goal of ensuring equal opportunity in athletics. During the two years of outreach to stakeholders to develop this proposed rule, the Department heard repeatedly that many schools, students, parents, and coaches face uncertainty about when and how transgender students can participate in school sports, particularly because some states have chosen to adopt new laws and policies on athletics participation that target transgender students. The NPRM, if adopted as a final rule, would provide clarity for students, parents, and coaches.

The proposed rule affirms that students benefit from the chance to join a school sports team to learn about teamwork, leadership, and physical fitness. The proposed rule would establish that policies violate Title IX when they categorically ban transgender students from participating on sports teams consistent with their gender identity just because of who they are. The proposed rule also recognizes that in some instances, particularly in competitive high school and college athletic environments, some schools may adopt policies that limit transgender students' participation. The proposed rule would provide schools with a framework for developing eligibility criteria that protects students from being denied equal athletic opportunity, while giving schools the flexibility to develop their own participation policies.

**Source:** The current Title IX athletics regulation can be found at [34 C.F.R. § 106.41](#). The proposed regulation would be added as (b)(2), and current (b) would be redesignated as (b)(1).



**Source:** [FACT SHEET: U.S. Department of Education's Proposed Change to its Title IX Regulations on Students' Eligibility for Athletic Teams | U.S. Department of Education](#)

### **Perez v. Sturgis Supreme Court Decision**

In *Perez v Sturgis*, the Supreme Court made a stunning decision to up-end decades of law requiring parents to first bring student disability legal claims against district through state-administered Due Process hearings. Parents were not permitted to file ADA or Section 504 disability discrimination lawsuits in federal or civil courts until IDEA Due Process procedures were “exhausted”; however, that now has changed with this new decision.

In *Perez*, the Supreme Court ruled that parents may now go directly to federal court to seek money damages by asserting discrimination claims under the ADA or Section 504, regardless of whether an IDEA Due Process had been filed.

**Source:** [SCOTUS Decision in Perez Raises Procedural Question | KingSpry](#)

### **PA Senate Bill 84**

Pennsylvania Senate Bill No. 84 was proposed to amend the Public-School Code of 1949. Its intent is to repeal the provision prohibiting public school teachers from wearing religious garb while in the performance of their duties.

Senate Bill No. 84 was the third and final attempt to repeal Section 1112 of Pennsylvania’s Public-School Code in the Pennsylvania Senate. The repeal was introduced in both the 2019-2020 and 2020-2021 sessions. In the current 2023-2024 session, with an overwhelming presence of bipartisan support, the Pennsylvania Senate passed Bill No. 84. Its passing in the Senate signifies that lawmakers are one step closer to eliminating the legal language and ban set forth in Section 1112 of Pennsylvania’s Public-School Code. Though of recent attention, the repeal of Section 1112 is not novel. Every state in the nation, except Pennsylvania, removed similar laws prior to 2017 sessions.

School Districts must be prepared to act if approved by Pennsylvania’s House of Representatives. Upon confirmation in the House, the repeal of Section 1112 will take effect in sixty (60) days, allotting school districts roughly three (3) months to implement updated district-wide policies that follow the new standards of Pennsylvania’s Public-School Code.

**Source:** [SB 84 Religious Garb for School Employees | KingSpry](#)

**Source:** [Bill Information \(History\) - Senate Bill 84; Regular Session 2023-2024 - PA General Assembly \(state.pa.us\)](#)

### **Additional Articles and Resources:**

**Article:** [Why Some Teachers' Unions Oppose 'Science of Reading' Legislation \(edweek.org\)](#)



**Article:** [Pa. lawmakers propose stipend program for student-teachers - Pennsylvania Capital-Star \(penncapital-star.com\)](#)

**Article:** [More teachers are quitting than usual, driven by stress, politics, data shows \(usatoday.com\)](#)

**Article:** [North Carolina Charter School Title IX Dress Code Case | KingSpry](#)

**Article:** [\\$3M Settlement Sets Up Education Fund in Glen Mills Schools Abuse Case in PA – NBC10 Philadelphia \(nbcphiladelphia.com\)](#)

**Article:** [New Pa. graduation requirement have five pathways | Local News | phillytrib.com](#)

**Resource:** [FACT SHEET: U.S. Department of Education's Proposed Change to its Title IX Regulations on Students' Eligibility for Athletic Teams | U.S. Department of Education](#)

**Resource:** On April 1, 2023, the U.S. Department of Education, Office of Elementary and Secondary Education's Office of Safe and Supportive Schools Department made 93 new awards totaling \$95M under the FY2023 Mental Health Service Professional (MHSP) grant program. The purpose of the MHSP grant program is to provide support and demonstrate innovative partnerships to train school-based mental health service providers for employment in schools and local educational agencies (LEAs). *For more information about the MSHP, please visit [Mental Health Service Professional Demonstration Grant Program - Office of Elementary and Secondary Education](#)*

**Resource:** The governor's proposed budget includes a \$567.4 million increase — or 7.8% — for basic education funding, which will go through the Fair Funding Formula, and a \$103.8 million spending increase for special education funding.

Governor Shapiro, referencing a [Commonwealth Court order](#) telling the governor, lawmakers, and educators to [reform how the state funds](#) its K-12 public schools, urged the General Assembly to come to the bargaining table and “come up with a solution that ensures every child has access to a thorough and efficient education.” For the full report access [Pa. Gov. Shapiro proposes \\$44.4B spending plan in 1st budget address - Pennsylvania Capital-Star \(penncapital-star.com\)](#)

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