

**PART VII. OFFICE FOR AID TO NONPUBLIC
EDUCATION**

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**CHAPTER 112. AUXILIARY SERVICES FOR NONPUBLIC
SCHOOL STUDENTS**

Authority

The provisions of this Chapter 112 issued under section 9-972.1 of the Public School Code of 1949 (24 P. S. § 9-972.1), unless otherwise noted.

Source

The provisions of this Chapter 112 adopted January 9, 1976, 6 Pa.B. 48, unless otherwise noted.

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GENERAL PROVISIONS

§ 112.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act 89—Section 922.1A of the Public School Code of 1949 (24 P. S. § 9-972.1).

Auxiliary services—Guidance, counseling, and testing services; psychological services; services for exceptional children; remedial services; speech and hearing services; services for the improvement of the educationally disadvantaged, such as, but not limited to teaching English as a second language; and such other secular, neutral, nonideological services of a supplementary and remedial nature as are of benefit to all school children and are presently or hereafter provided for public school children of the Commonwealth. The following is a more detailed description of the auxiliary services identified in this paragraph:

(i) *Guidance, counseling and testing*—Includes, but is not limited to such services as are delineated in § 7.13 (relating to health services).

(ii) *Psychological services*—Those diagnostic and evaluative services for children, possibly involving consultation and counseling with students, parents, and members of the professional staff.

(iii) *Exceptional children*—Children of school age who deviate from the average in physical, mental, emotional, or social characteristics to such an extent that they require special educational facilities or services and including all children in detention homes.

(iv) *Services for exceptional children*—Services which are generally recognized to be of particular benefit to exceptional children.

(v) *Remedial services*—Those corrective services applied following identification, including, but not limited to, medical, psychological, and psychiatric and remedial measures.

(vi) *Speech and hearing services*—Those services provided to students whose condition of speech or hearing interferes with satisfactory communication or deviates from accepted standards of their individual social and cultural communities.

(vii) *Services for the improvement of the educationally disadvantaged*—Those services necessary to assist a student to perform at the grade level appropriate for his age and potential.

Department—The Department of Education of the Commonwealth.

Intermediate unit—Those units established by the act of May 4, 1970 (P. L. 311, No. 102) (24 P. S. §§ 9-951—9-971).

Nonpublic school—A nonprofit school located in this Commonwealth, other than a public school, wherein a resident of this Commonwealth may legally fulfill the compulsory school attendance requirements of the Public School Code of 1949 (24 P. S. §§ 1-101—27-2702) and which meets the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C.A. 2000 et seq.

Source

The provisions of this § 112.1 amended November 30, 1979, effective November 18, 1978, 9 Pa.B. 3939. Immediately preceding text appears at serial page (44186).

ADMINISTRATION**§ 112.21. Responsible agency.**

Intermediate units are hereby designated as the responsible public agencies for providing services and the assignment of personnel to provide auxiliary services to children in the nonpublic schools within the geographic boundaries of the intermediate units.

§ 112.22. Consolidation.

Two or more intermediate units may, through articles of agreement duly approved by the Secretary, designate one intermediate unit as the unit to administer the delivery of some or all services provided in this chapter for the benefit of all children attending nonpublic schools located within the geographical boundaries of such intermediate units.

§ 112.23. Eligibility.

Any student, who is a resident of this Commonwealth, and whose tuition is not paid by the Commonwealth, is eligible to receive auxiliary services under this chapter if enrolled in grades K-12 inclusive in a nonpublic school.

§ 112.24. Program of services.

(a) Each intermediate unit shall establish a program for nonpublic school students consisting of those auxiliary services which are provided to public school students within the school district in which the nonpublic school is located.

(b) Those auxiliary services provided to public school students by the intermediate units or school districts, or both, by means of State or local revenues, during the school year 1974-75, shall continue to be provided for the benefit of public or nonpublic school students. This provision in no way prevents a school district from curtailing such services in that public school district or within their own schools as it may deem necessary.

(c) No school district shall be required to offer auxiliary services provided by any other school district within such intermediate unit.

§ 112.25. Determination and provision of services.

The program of services provided to nonpublic school students shall be determined by the intermediate unit as follows:

- (1) The intermediate unit shall prepare a list of auxiliary services in accordance with § 112.24 (relating to program of services).

(2) The intermediate unit shall then ascertain the needs of the eligible nonpublic school students for the particular auxiliary services contained in the list. It is recognized that auxiliary services, by their nature, relate to individual child needs and that the accurate assessment of these needs can only be made through consultation with persons having charge of the child in the normal learning environment of the child.

(3) The intermediate unit shall also determine which auxiliary services on the list may be provided within the legal limitations of Act 89.

(4) The provision of services means the delivery of auxiliary services to students through the providing of qualified personnel, whether through the use of staff members of the intermediate unit, or through the intermediate unit's contracting with other agencies or individuals, but not the staff of the nonpublic schools. The supplying of supportive personnel, materials, and equipment is permissible when necessary for the proper delivery of auxiliary services by qualified personnel.

§ 112.26. Facilities.

(a) Auxiliary services may be provided only in the following:

(1) Public school buildings.

(2) Facilities leased by the intermediate unit in accordance with the provisions of §§ 17.11 and 17.15 (relating to capital subsidy and cost per square foot of leased facilities) except that no facilities shall be leased in areas excluded in paragraph (6).

(3) Nonpublic nonsectarian schools.

(4) Mobile units leased by and under the exclusive control of the intermediate units not permanently parked on areas excluded in paragraph (6).

(5) Demountable units, trailers, tractor trailers, quonset huts, and other prefabricated units not permanently parked, installed, or constructed on areas excluded in paragraph (6).

(6) Other appropriate areas, excluding churches, synagogues, or areas under the control thereof or facilities under the control of a sectarian school.

(b) The provisions of this section shall not be interpreted to prohibit the intermingling of public and nonpublic school students where services are rendered to groups of students.

§ 112.27. Transportation.

Intermediate units shall be responsible for providing student transportation whenever the necessity arises. Costs incurred for transportation shall be charged against the Act 89 program budget.

§ 112.28. Personnel.

The following provisions shall pertain to all professional employes hired by the intermediate unit for the provision of auxiliary services under this chapter:

(1) Such employment shall be governed by the provisions of Chapter 49 (relating to certification of professional personnel).

(2) Salary scales and employe benefits shall conform to intermediate unit policies and procedures.

(3) Employment by the intermediate unit board of directors shall be upon the recommendation of the executive director thereof.

(4) The intermediate unit shall not delegate the employment or termination decision affecting persons employed under Act 89 to nonpublic school officials or employes, and the assignment and supervision of personnel under this chapter shall be the responsibility of the intermediate unit.

§ 112.29. Allocation of funds.

The Secretary of Education or his designated official shall allocate to each intermediate unit during the month of July, an amount equal to the number of nonpublic school students as of October 1 of the preceding school year who are enrolled in nonpublic schools within the intermediate unit, times \$45.

§ 112.30. Distribution of funds.

The funds shall be distributed to intermediate units in accordance with the following schedule:

- (1) August 1—15% of its allocation.
- (2) October 1—75% of its allocation.
- (3) February 1—10% of its allocation.

§ 112.31. Budgeting.

(a) Each intermediate unit shall budget and account for its activities under Act 89 within the program accounting system established by the Department. Annually, each intermediate unit shall submit to the Secretary of Education a preliminary budget on or before January 31, and a final budget on or before June 15 for the succeeding year; and shall file a final financial report on or before October 31 for the preceding year.

(b) The program budget shall set forth a program under which funds allocated to the intermediate units under §§ 112.29 and 112.30 (relating to allocation of funds and distribution of funds) will be expended solely for purposes authorized by Act 89.

(c) The program budget plan shall include a detailed description of activities planned to accomplish the purposes mandated by Act 89. This description shall include, but is not limited to objectives, activities, affected student population, and amount of funds allotted to meet such objective.

(d) The intermediate unit shall not expend more than 6.0% of the allocation it receives for administration nor more than 18% for rental of facilities. Funds not expended for administration or rental may be used for Act 89 auxiliary services.

(e) The Department will not use for administrative purposes more than 1.0% of the funds appropriated for Act 89.

(f) Interest earned on the allocations by the intermediate units may be used only for the purposes enumerated in Act 89. The expenditure of interest monies is not governed by the percentage limitations listed in § 112.30 (relating to distribution of funds) and in this section.

(g) All unencumbered, unexpended funds at the intermediate units as of June 30 of the program year shall be refunded to the Department, no later than October 1 of the subsequent fiscal year.

§ 112.32. Evaluation of programs.

The Department will evaluate all programs annually.

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