

Act 1: Supporting Graduation & Equal Access for Students Experiencing Homelessness, in Foster Care, or in the Juvenile Justice System

August 2022

In January 2022, the Pennsylvania General Assembly enacted [Act 1 of 2022 \(Act 1\)](#) (24 P.S. § 13-1331.1), which seeks to remove educational and graduation barriers for students who experience “education instability” due to homelessness, foster care, involvement in the juvenile justice, or court-ordered placements. These students often face barriers to fully participating in school and timely graduation, due to lost or unrecognized credits or a student’s inability to take a course required by their last school.

Act 1 of 2022 seeks to address these barriers and promote timely high school graduation and equal access to school engagement for students who experience one or more school changes during a single school year due to homelessness, involvement in the foster care or juvenile justice systems, or court-ordered placements. This FAQ provides details on the provisions of the new law, how it can help students, and how advocates can ensure that young people receive the benefit of the law.

What are the goals of Act 1, and how are those goals accomplished?

Act 1 aims to remove barriers to educational success and timely graduation for students who experience school disruption or “education instability.”¹ Act 1 achieves these goals by requiring school districts to create an infrastructure to:

- identify all eligible students for support under Act 1,² including students who should have been identified as being eligible in the 2021-2022 school year but were not³
- designate a preferably “building level” Point of Contact to ensure that eligible students receive the benefits of Act 1⁴
- facilitate prompt transfer of education records and appropriate placement⁵
- ensure that students receive full and partial credit for all work completed at all prior school entities⁶
- waive local graduation requirements that would otherwise serve as a barrier to participation in extracurricular activities or utilize other methods to fulfill requirements⁷

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- develop a graduation plan to ensure timely graduation⁸
- work with a prior school district to confer a diploma if a student is unable to graduate from their current school⁹
- work with the Department of Education to obtain a state-issued Keystone Diploma if other options are exhausted.¹⁰

When is the law effective?

The law became effective in January 2022.¹¹ The Pennsylvania Department of Education (PDE) released a [“Dear Colleague” letter](#) regarding Act 1 on April 25, 2022,¹² and issued a [Basic Education Circular](#) to school entities on how to implement on Act 1 on August 1, 2022.¹³

Importantly, Act 1’s graduation provisions apply retroactively to eligible students who attended school during the 2021-2022 school year, but were not offered a pathway to on-time graduation.¹⁴ These students can reach out to the last school they attended in the 2021-2022 school year, request that a Point of Contact be assigned, and work with the Point of Contact to determine a pathway to immediate graduation without needing to attend additional classes.¹⁵ Potential pathways to graduation include: (1) graduating from their current school or the school they most recently attended in 2021-2022 if they are not currently enrolled in school; (2) a prior school; or (3) as a last resort, applying for a statewide Keystone diploma from the Pennsylvania Department of Education. If the student is no longer in school, their diploma will be dated retroactive to the 2021-2022 school year.¹⁶

Which students does Act 1 apply to?

The law applies to students who experience *one or more school changes in a school year* due to homelessness, adjudication, foster care, and juvenile justice or court-ordered placements.¹⁷ It applies to students returning to their former school, starting at a new school, or re-engaging in school after an extended absence.¹⁸ It includes students placed in privately licensed schools, including placements for non-educational purposes, group homes, residential treatment facilities, detention centers, state secure facilities, and other residential settings.

What schools does the law apply to?

The law applies to “a school entity.”¹⁹ This includes any school district (including a host district where a residential placement is located or a school operated by a school district or intermediate unit, or a Private Residential Rehabilitation Institution (PRRI), a charter school, including a cyber charter school, intermediate unit (IU), or a career and technical school.²⁰

How are students eligible for Act 1 identified by schools?

It is the school entity’s responsibility to proactively identify students, including students who should have been identified in the 2021-2022 school year but were not.²¹ Importantly, PDE’s Act 1 requires school entities to “be flexible in determining

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eligibility based on minimal documentation,” which includes “letters, emails, verbal confirmation or other documentation.”²² Many different individuals can confirm eligibility including shelter providers, outreach workers, case managers, juvenile probation offices and others with such knowledge.²³ Additionally PDE’s Act 1 [“Dear Colleague” letter](#) directs schools to “provide services broadly and without requiring the student to produce eligibility evidence.”²⁴

School staff shall review student records to determine eligibility, but the reason that the student is eligible for the protections of Act 1 will remain confidential.²⁵ Points of Contact must take special care to ensure that each student is afforded all Act 1 protections without disclosing the basis of the student’s eligibility, unless a student gives permission.²⁶ No student should be asked to disclose any charge, detention, or adjudication of delinquency, as this information is confidential.²⁷ Parents, advocates, and supportive adults should help ensure that eligible youth are identified by their school and are encouraged to request services and supports under Act 1.

How does Act 1 interact with other laws?

Act 1 works in tandem with other civil rights laws that protect eligible students such as the McKinney-Vento Act, Every Student Succeeds Act (ESSA), and laws protecting students who are people with disabilities such as the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA). Act 1 does not “abridge or undermine” these and other civil rights laws that protect and advance the rights of students.²⁸

Ensuring Equal Access

How does Act 1 eliminate barriers to participation in school-sponsored extracurriculars?

The school entity that a student currently attends, called the receiving school, cannot limit student participation in extracurricular activities or school-sponsored activities through fees, fines, and other requirements that may present barriers to participation. To reduce barriers, schools must take actions such as:

- refraining from imposing fines or other penalties for students who are unable to obtain a uniform²⁹
- “waiving all fees that would otherwise be assessed against the student”³⁰
- waiving enrollment deadlines for students to participate in extracurricular and school-sponsored activities,³¹ including if a student arrives at a school entity midyear.³²

When schools collect fees, they create barriers that prevent students from participating in activities that can help them feel connected to their school. Schools should eliminate fees and fines for all students, regardless of Act 1 eligibility, as they often prevent students from participating and engaging in school activities due to cost. Importantly, PDE has recognized that “fees can be harmful to students and

families and may create barriers to full participation in school.”³³ Some examples of fees that should be waived include fees for school IDs, uniforms, participation fees (athletics, extracurriculars, school-sponsored trips, clubs, courses, or materials), lost or damaged materials, athletic physical exams, parking or driving, school lunch, library use, locker or padlock rental or replacements, summer school, credit recovery, technology, or graduation regalia.³⁴

See ELC’s [Request to Participate in a School-Sponsored Activity or Extracurricular self-advocacy tool](#) and/or ELC’s [Request to Eliminate Fines and Fees self-advocacy tool](#) to support an eligible student who is facing a barrier to full participation.

Can students experiencing education instability be penalized for uniform or dress code violations?

No. Students cannot be penalized for a dress code violation or consequences related to delays in obtaining a uniform.³⁵

What is the role of a Point of Contact?

Points of Contact, who are preferably “building-level” personnel assigned by the school entity, are responsible for supporting students to make smooth and successful transitions between schools and to graduate on time.³⁶ To accomplish those goals, Points of Contact should do the following for all eligible students:

- Request complete student information and records from prior school entity, county agency, and student’s education decision maker.³⁷ (The prior school should provide the information within 10 business days.)³⁸
- Facilitate expedited consultation with the school counselor or other mental health professionals, as appropriate³⁹
- Facilitate the prompt placement of a student in the appropriate courses⁴⁰
- Connect the student with appropriate education services.⁴¹
- Support student integration into school-based activities and extracurriculars without imposing fees and at any point in the school year⁴²

For students in high school (9th-12th grades), Points of Contact also:

- Review all records and assess a student’s credits in accordance with policies and procedures established by the school entity⁴³
- Help develop and execute an “individualized and student-specific graduation plan”⁴⁴
- Request a high school diploma from the prior school entity, if applicable⁴⁵
- Assist the student to obtain a statewide Keystone Diploma described below, if needed⁴⁶

How is a Point of Contact assigned?

The school entity must assign a preferably “building level” Point of Contact to students experiencing education instability.⁴⁷ This person is “key to welcoming students and supporting smooth and successful transition.”⁴⁸ The name and contact information of the Point of Contact must be listed in the student’s educational records and provided to the student’s education decision maker.⁴⁹ If the assigned Point of Contact is “unfamiliar with the student being served” they should “seek out the knowledge and expertise of school personnel who know the student,” as outlined in PDE’s guidance.⁵⁰ See ELC’s [Request for Assignment of a Point of Contact self-advocacy tool](#) to support an eligible student who has not yet been assigned a Point of Contact.

Ensuring Prompt Graduation

How do schools ensure prompt graduation through assessment of credits?

School entities must create procedures for full and partial credit transfer of coursework satisfactorily completed at all prior school entities.⁵¹ If a student was able to complete a course, they should receive full credit. If a student was able to complete some of a course at a prior school, but not all of it, they should be awarded partial credits for the work they were able to complete. This process makes sure that a student’s hard work counts towards graduation. Schools are required to recognize and award credit for courses and partial courses appearing on previous school records.

Assessing credit for coursework can also consider the following as evidence:

- demonstration of competency by the student⁵²
- performance by a student on an examination⁵³
- successful completion of a career and technical education course⁵⁴
- any other evidence or method the school entity deems appropriate to determine competency by the student.⁵⁵

What processes should a school undertake to verify credits and ensure youth are awarded the credit they are due?

Here are steps that the school can take to verify and award credits:

1. **Verify all full and partial credits a student has earned by reviewing the student’s prior transcripts.** Even if a student was not able to complete a course, the student must be awarded partial credit based on a school entity’s policies. If there are questions about the content of a course, contact the prior school and discuss the course with the student. Points of Contact must also “investigate” whether a course taken in a prior school fulfills a requirement in a student’s current school.⁵⁶ Importantly, school entities may use different

names for a course that meets the same graduation requirement, as recognized by PDE.⁵⁷ For example, one school entity may refer to the course as 9th Grade English while another school entity may use a different name (e.g., Mythology). Even if a school uses a different name for a course, a student must be given credit for the requirement if the course they took at a prior school is the “equivalent” to the course required by the new school. This is particularly true of courses at schools associated with a residential placement that may sound like an elective but may actually fulfill a core course requirement. See ELC’s [Request for Credit Assessment and/or Graduation Plan self-advocacy tool](#) to support a student whose credits have not been counted and verified.

2. Determine what partial credits will be awarded and how the student may complete missing partial credits for that course if needed.

What are the alternatives if the student has not earned certain course credits required for graduation?

If the student did not complete a course required for graduation, consider the following options:

1. Consider if the course should be waived because, for example, the student did not have opportunity to take the course (e.g., the student needs 9th grade civics, but never had a chance to take that course). School entities may waive a course required for graduation in light of the student’s circumstances.⁵⁸
2. If a course required for graduation is NOT waived, an alternative or modified course of study must be provided to the student to aid in acquiring competency in the content area by the expected graduation date.⁵⁹ To that end:
 - a) Consider if a different class fulfills the requirement that the student is missing (e.g., if the class is coded as Mythology, consider whether it was actually teaching skills similar to those taught in English 10).⁶⁰
 - b) Consider if the student can demonstrate competency for the course through one of the following alternative methods:
 - i. Demonstration of competency (e.g., the student completed an internship that provided the opportunity to build similar skills)⁶¹
 - ii. Successful performance on a subject matter exam⁶²
 - iii. Successful completion of a higher-level course that indicates competency in a lower-level course
 - iv. Successful completion of a career or technical education course⁶³
 - v. Other evidence or methods that the school entity deems appropriate.⁶⁴ PDE’s guidance references allowing school entities to use methods such as submitting an essay, completing a presentation or project, successful completion of a higher-level

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course, experiential learning opportunities, or internships to establish competency.⁶⁵

School entities are encouraged to be flexible in the assessment of credits and implementation of this process to meet the needs of the individual student whose credits are being assessed.

Are students who experience “education disruption” entitled to a graduation plan?

Yes. Students are entitled to an “individualized student-specific graduation plan” that outlines the courses necessary for the student to graduate from high school on time and successfully transition to postsecondary education and/or the workforce.⁶⁶ The student and student’s educational decision maker should understand and help develop the graduation plan with the Point of Contact to make sure that the student’s goals and needs are centered. The graduation plan will be developed by the Point of Contact along with the student and the student’s education decision maker. This plan must be included in a student’s education record.⁶⁷

When can the Point of Contact request a diploma from a prior school entity?

If a student is not eligible to graduate from the current school after the school has waived courses and/or provided alternative courses of study, a Point of Contact may request a high school diploma from the prior school entity.⁶⁸ A student may be able to graduate from a prior school due to different local credit or course requirements for graduation or different policies relating to waivers and partial credits.⁶⁹

When is a student eligible to apply for a Keystone Diploma?

If a student has exhausted all other graduation options, including seeking a diploma from a prior school, and the student has met state graduation requirements, a Point of Contact shall assist them to apply for a statewide secondary school diploma, known as a “Keystone Diploma.”⁷⁰ Importantly, this option should only be pursued as a last resort after other options for graduation have been exhausted.

The Keystone Diploma will first become available to students beginning in the 2022-2023 school year.⁷¹ The application will be available on PDE’s website at that time. A student who attended school in the 2021-2022 school year and meets the requirements for a Keystone Diploma can apply for and be awarded a Keystone Diploma in the 2022-2023 school year with the help of a Point of Contact from their school if they do not qualify for a diploma from their prior schools.⁷² In these cases, the Keystone Diploma will be dated retroactive to the 2021-2022 school year, in accordance with Act 55.⁷³

To qualify for a statewide Keystone Diploma, a student must complete statewide graduation requirements under Act 158.⁷⁴ The diploma will be awarded to the student in a standardized form developed by the Pennsylvania Department of Education. A Keystone high school diploma will be the statewide, standardized equivalent of a high school diploma.⁷⁵ It is not a GED.⁷⁶

The eligibility requirements for obtaining a statewide Keystone Diploma will be released by the Pennsylvania Department of Education in September 2022.

Can a student be denied a timely graduation, due to the inability to take Keystone Exams in 2020 because of the ongoing COVID-19 pandemic?

No. The inability to take the 2020 Keystone Exams due to the ongoing COVID-19 pandemic cannot be used as a basis to penalize a student or delay on-time graduation.⁷⁷

How does Act 1 apply to students who should have been identified during the 2021-2022 school year, but were not offered a pathway to on-time graduation?

Students who attended school in the 2021-2022 school year but were not offered a pathway to on-time graduation may be graduated *without attending school or completing additional requirements*.⁷⁸

To initiate this process, the school entity should reach out to an eligible student in the school the student is currently attending – or last attended if the student is not currently enrolled in school – and must assign a Point of Contact. The Point of Contact must work with the student to identify a pathway to on-time graduation and support the student in obtaining a diploma from the school they last attended, a prior school, or through the statewide Keystone Diploma process. A student’s diploma will be retroactively dated to the 2021-2022 school year.⁷⁹

Individuals supporting a student should immediately let the appropriate school know the eligible student needs to be offered a pathway to on-time graduation, although it remains the school entities’ obligation to identify such students.⁸⁰ See ELC’s [Request for Retroactive 2021-2022 Act 1 Graduation self-advocacy tool](#) to help eligible students navigate this process.

How must school entities protect the rights of students who are people with disabilities when determining a pathway to graduation under Act 1?

School entities must uphold all rights a student with a disability has under their IEP or Section 504 Accommodations Plan.⁸¹ Act 1 does not conflict or interfere with the rights of a student with an IEP to graduate through “credit acquisition or through the completion of IEP goals” or the right of a student to stay in school until the end of the school year in which they turn 21, even if Act 1 offers an “earlier pathway to graduation.”⁸² Should a student elect to remain in school until the end of the school year in which they turn 21, they are still able to walk with their graduating class and participate in the school entity’s graduation ceremony.⁸³

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ students, and children experiencing homelessness.

ELC’s publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC’s Helpline for information and advice – visit www.elc-pa.org/contact or call 215-238-6970 (Philadelphia) or 412-258-2120 (Pittsburgh) – or contact another attorney of your choice.

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¹ 24 PA. STAT. AND CONS. STAT. § 1331.1(e) (West 2022) (defining educational instability as “[o]ne or more changes in school entity enrollment during a single school year as a result of any of the following: (1) Homelessness...and as determined by the school entity. (2) An adjudication: (i) of dependency under 23 Pa.C.S. Ch. 63 (relating to child protective services) and 42 Pa.C.S. Ch. 63 (relating to juvenile matters); (ii) of delinquency under 23 Pa.C.S. Ch. 63 and 42 Pa.C.S. Ch. 63, if the parent or guardian of the student wishes to disclose the adjudication of delinquency; or (iii) as part of court-ordered services under a voluntary placement or custody agreement.”).

² *Assisting Students Experiencing Education Instability: Basic Education Circular*, PA. DEP’T OF EDUC. (Aug. 1, 2022), <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Act1of2022AssistingStudentsExperiencingEducationInstability-.aspx>; PA. DEP’T OF EDUC., “Dear Colleague” letter: Act 1 of 2022: Supporting Graduation For Students Experiencing Education Instability, <https://www.education.pa.gov/K-12/Pages/Act1of2022.aspx> (last visited July 18, 2022) [hereinafter Dear Colleague letter].

³ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁴ Tit. 24 § 13-1331.1(a)(1); *see* Dear Colleague letter, *supra* note 2) (specifying that the Point of Contact should be at the building level).

⁵ Tit. 24 § 13-1331.1(b)(4).

⁶ *Id.* § 13-1331.1(a)(2).

⁷ *Id.* § 13-1331.1(c)(2).

⁸ *Id.* § 13-1331.1(b)(5).

⁹ *Id.* § 13-1331.1(c)(1).

¹⁰ *Id.* § 13-1331.1(c)(5).

¹¹ *Id.* § 13-1331.1(a).

¹² Dear Colleague letter, *supra* note 2.

¹³ *Assisting Students Experiencing Education Instability*, *supra* note 2.

¹⁴ Tit. 24 § 13-1331.1(c)(5.1).

¹⁵ *Assisting Students Experiencing Education Instability*, *supra* note 2.

¹⁶ Tit. 24 § 13-1331.1(c)(5.1).

¹⁷ *Id.* § 13-1331.1(e) (defining education instability. *See supra* note 1).

¹⁸ *Assisting Students Experiencing Education Instability*, *supra* note 2.

¹⁹ Tit. 24 § 13-1331.1(e) (defining school entity as any of the following: “(1) A school district. (2) A charter school. (3) A cyber charter school. (4) A regional charter school. (5) An intermediate unit. (6) A career and technical school.”).

²⁰ *Id.*

²¹ *Assisting Students Experiencing Education Instability*, *supra* note 2.

²² *Id.*

²³ *Id.*

²⁴ *See* Dear Colleague letter, *supra* note 2.

²⁵ *See* Dear Colleague letter, *supra* note 2; *Assisting Students Experiencing Education Instability*, *supra* note 2.

²⁶ *Assisting Students Experiencing Education Instability*, *supra* note 2.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Tit. 24 § 13-1331.1(a)(3); *see* Dear Colleague letter, *supra* note 2.

³⁰ Tit. 24 § 13-1331.1(a)(4).

³¹ *Id.* § 13-1331.1(a)(5); *see* Dear Colleague letter, *supra* note 2.

³² *Assisting Students Experiencing Education Instability*, *supra* note 2.

³³ *Id.*

³⁴ *Id.*

³⁵ Tit. 24 § 13-1331.1(a)(3).

³⁶ *Id.* § 13-1331.1(a)(1); *see* Dear Colleague letter, *supra* note 2 (indicating that the Point of Contact is preferably someone at the building level).

³⁷ Tit. 24 § 13-1331.1(b) (4).

³⁸ *Id.*

³⁹ *Id.* § 13-1331.1(b)(1).

⁴⁰ *Id.* § 13-1331.1(b)(2).

⁴¹ *Id.* § 13-1331.1(b)(3).

⁴² See Dear Colleague letter, *supra* note 2.

⁴³ Tit. 24 § 13-1331.1(a)(2).

⁴⁴ Tit. 24 § 13-1331.1(b)(5); *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁴⁵ *Id.* § 13-1331.1(c)(3).

⁴⁶ *Id.* § 13-1331.1(c)(5).

⁴⁷ *Id.* § 13-1331.1(a)(1); see Dear Colleague letter, *supra* note 2 (indicating that the Point of Contact is preferably someone at the building level).

⁴⁸ See Dear Colleague letter, *supra* note 2.

⁴⁹ Tit. 24 § 13-1331.1(a)(1).

⁵⁰ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁵¹ Tit. 24 § 13-1331.1(a)(2).

⁵² *Id.* § 13-1331.1(c)(1)(i)

⁵³ *Id.* § 13-1331.1(c)(1)(ii)

⁵⁴ *Id.* § 13-1331.1(c)(1)(iii)

⁵⁵ *Id.* § 13-1331.1(c)(1)(iv).

⁵⁶ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁵⁷ *Id.*

⁵⁸ Tit. 24 § 13-1331.1(c)(1).

⁵⁹ *Id.* § 13-1331.1(c)(2).

⁶⁰ *Id.* § 13-1331.1(c)(1); See Dear Colleague letter, *supra* note 2 (recognizing that courses with different titles may fulfill the same content requirement).

⁶¹ Tit. 24 § 13-1331.1(c)(1)(i).

⁶² *Id.* § 13-1331.1(c)(1)(ii).

⁶³ *Id.* § 13-1331.1(c)(1)(iii).

⁶⁴ *Id.* § 13-1331.1(c)(1)(iv).

⁶⁵ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁶⁶ *Assisting Students Experiencing Education Instability*, *supra* note 2 (recognizing that graduation plans must be individualized for each student); see also Tit. 24 § 13-1331.1(b)(5).

⁶⁷ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁶⁸ Tit. 24 § 13-1331.1(c)(3).

⁶⁹ *Id.*

⁷⁰ *Id.* § 13-1331.1(c)(5).

⁷¹ *Id.*

⁷² *Id.* § 13-1331.1(c)(5.1).

⁷³ *Id.*

⁷⁴ *Id.* § 13-1331.1(c)(5).

⁷⁵ *Id.* § 13-1331.1(c)(6).

⁷⁶ *Id.*

⁷⁷ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁷⁸ Tit. 24 § 13-1331.1(c)(5.1).

⁷⁹ *Assisting Students Experiencing Education Instability*, *supra* note 2.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*