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STATE OF NEW JERSEY
213th LEGISLATURE

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Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Establishes a permanent Interdistrict Public School Choice Program.

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on November 23, 2009,
with amendments.



(Sponsorship Updated As Of: 11/24/2009)

1 AN ACT establishing a permanent Interdistrict Public School Choice
2 Program, supplementing chapter 36B of Title 18A of the New
3 Jersey Statutes, and repealing parts of the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the "Interdistrict
9 Public School Choice Program Act."

10
11 2. As used in this act:

12 "Choice district" means a public school district, established
13 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
14 Statutes, which is authorized under the interdistrict public school
15 choice program to open a school or schools to students from
16 sending districts;

17 "Commissioner" means the Commissioner of Education;

18 ¹["Receiving district" means the district receiving a student from
19 a sending district;]¹

20 "Sending district" means the district of residence of a 'choice'
21 student.

22
23 3. The Commissioner of Education shall establish an
24 interdistrict public school choice program which shall provide for
25 the creation of choice districts. A choice district may enroll
26 students across district lines in designated schools of the choice
27 district.

28
29 4. a. A proposed choice district shall submit an application to
30 the commissioner no later than April 30 in the year prior to the
31 school year in which the choice program will be implemented;
32 except that for the first year of implementation of the program
33 pursuant to P.L. , c. (C.) (pending before the Legislature as
34 this bill), the application shall be submitted no later than the date
35 specified by the commissioner. The application shall include, but
36 not be limited to, the following information:

37 (1) a description of programs and schools and the number of
38 student openings in each school identified by grade level which are
39 available for selection;

40 (2) the provision for the creation of a parent information center;

41 (3) a description of the student application process and any
42 criteria required for admission; 'and'¹

43 (4) an analysis of the potential impact of the program on student
44 population diversity in all potential participating districts and a plan

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted November 23, 2009.

1 for maintaining diversity in all potential participating districts,
2 which plan shall not be used to supersede a court-ordered or
3 administrative court-ordered desegregation plan '1];

4 (5) the provision for screening out students during the
5 application process who wish to attend a school for athletic,
6 extracurricular, or social reasons; and

7 (6) after agreement with potential sending districts, the school
8 district responsible for the transportation, or aid-in-lieu-of
9 transportation, for students participating in the choice program from
10 each of the potential sending districts]'.¹

11 The commissioner shall notify a choice district of the approval or
12 disapproval of its application no later than July 30, and the reasons
13 for disapproval shall be included in the notice; except that for the
14 first year of implementation of the program pursuant to P.L. , c.
15 (C.) (pending before the Legislature as this bill), notification
16 shall be no later than the date specified by the commissioner.

17 The commissioner shall notify the State Board of Education of
18 the approval of a choice district application and the State board
19 shall include a public notice of the approval on the next agenda for
20 its public monthly meeting.

21 b. The commissioner may take appropriate action, consistent
22 with State and federal law, to provide that student population
23 diversity in all districts participating in a choice district program is
24 maintained. Student population diversity shall include, but not be
25 limited to, the ethnic, racial, economic, and geographic diversity of
26 a district's student population. The actions may include, but need
27 not be limited to:

28 (1) directing a choice district to take appropriate steps to
29 implement successfully the district's plan for maintaining student
30 population diversity;

31 (2) restricting the number of choice students from a sending
32 district or the authority of a choice district to accept choice students
33 in the future; and

34 (3) revoking approval of the choice district. Any choice student
35 who is attending a designated school in a choice district at the time
36 of the commissioner's revocation of approval shall be entitled to
37 continue to be enrolled in that school until graduation.

38
39 5. The commissioner shall evaluate an application submitted by
40 a proposed choice district according to the following criteria:

41 a. the fiscal impact on the district;

42 b. the quality and variety of academic programs offered within
43 the district;

44 c. the potential effectiveness of the student application process
45 and of the admissions criteria utilized;

46 d. the impact on student population diversity in the district; and

47 e. the degree to which the program will promote or reduce
48 educational quality in the choice district and the sending districts.

1 6. Any choice district established by the commissioner prior to
2 the effective date of P.L. , c. (C.) (pending before the
3 Legislature as this bill) is authorized to continue operation as if the
4 choice district had been approved pursuant to the provisions of
5 P.L. , c. (C.) (pending before the Legislature as this bill).

6
7 7. a. The parents or guardian of a student shall notify the
8 sending district of the student's intention to participate in the choice
9 program and shall submit an application to the choice district,
10 indicating the school the student wishes to attend, no later than the
11 date specified by the commissioner. To be eligible to participate in
12 the program, a student shall be enrolled at the time of application in
13 grades preschool through '[9] 12' in a school of the sending
14 district and have attended school in the sending district for at least
15 one full year immediately preceding enrollment in the choice
16 district; except that the one-year requirement shall not apply to a
17 student enrolling in preschool or kindergarten in the choice district,
18 if that student has a sibling enrolled in the choice district. Openings
19 in a designated school of a choice district shall be on a space-
20 available basis, and if more applications are received for a
21 designated school than there are spaces available, a lottery shall be
22 held to determine the selection of students. Preference for
23 enrollment may be given to siblings of students who are enrolled in
24 a designated school.

25 'If there is an opening in a designated school of a choice district
26 and there is no student who is enrolled in a sending district who
27 meets the attendance requirements of this subsection, including a
28 student who has been placed on a waiting list based on a lottery
29 held in the choice district, then the choice district may fill that
30 opening with a public school student who does not meet the
31 attendance requirements of this subsection or a nonpublic school
32 student.'¹

33 b. A choice district may evaluate a prospective student on
34 '[reasonable criteria, including]'¹ the student's interest in the
35 program offered by a designated school. The district shall not
36 discriminate in its admission policies or practices on the basis of
37 athletic ability, intellectual aptitude, English language proficiency,
38 status as a handicapped person, or any basis prohibited by State or
39 federal law.

40 c. A choice district shall not prohibit the enrollment of a
41 student based upon a determination that the additional cost of
42 educating the student would exceed the amount of additional State
43 aid received as a result of the student's enrollment. A choice
44 district may reject the application for enrollment of a student who
45 has been classified as eligible for special education services
46 pursuant to chapter 46 of Title 18A of the New Jersey Statutes if
47 that student's individualized education program could not be
48 implemented in the district, or if the enrollment of that student

1 would require the district to fundamentally alter the nature of its
2 educational program, or would create an undue financial or
3 administrative burden on the district.

4 d. A student whose application is rejected by a choice district
5 shall be provided with a reason for the rejection in the letter of
6 notice. The appeal of a rejection notice may be made to the
7 commissioner.

8 e. Once a student is enrolled in a designated school, the student
9 shall not be required to reapply for each school year and shall
10 continue to be permitted to be enrolled until graduation. A student
11 shall be permitted to transfer back to a school of the sending district
12 or may apply to a different choice district during the next
13 application period.

14 f. A choice district shall accept all of the credits earned toward
15 graduation by a student in the schools of the sending district.

16 g. A choice district shall notify a sending district upon the
17 enrollment of a choice student resident in that district.

18

19 8. a. (1) ¹Upon adoption of a resolution, the school board of a
20 sending district may restrict enrollment of its students in a choice
21 district to 2% of the number of students per grade level per year in
22 the sending district, limited by any resolution adopted pursuant to
23 paragraph (2) of this subsection.

24 (2) Upon adoption of a resolution, the school board of a sending
25 district may restrict enrollment of its students in a choice district to
26 7% of the total number of students enrolled in the sending district.

27 (3) ¹ The school board of a sending district may adopt a
28 resolution to ¹exceed the enrollment restriction percentages of
29 paragraphs (1) and (2) of this subsection restrict enrollment of its
30 students in a choice district¹ to a maximum of 10% of the number
31 of students per grade level per year limited by any resolution
32 adopted pursuant to this paragraph and 15% of the total number of
33 students enrolled in the sending district, provided that the resolution
34 shall be subject to approval by the commissioner upon a
35 determination that the resolution is in the best interest of the
36 district's students and that it will not adversely affect the district's
37 programs, services, operations, or fiscal conditions, and that the
38 resolution will not adversely affect or limit the diversity of the
39 remainder of the student population in the district who do not
40 participate in the choice program.

41 ¹[(4)] (2) ¹ Enrollment restriction percentages adopted by any
42 resolution pursuant to paragraph (1) ¹[(, (2), or (3))] of this
43 subsection¹ shall not be compounded from year to year and shall be
44 based upon the enrollment counts for the year preceding the sending
45 district's initial year of participation in the choice program, except
46 that in any year of the program in which there is an increase in
47 enrollment, the percentage enrollment restriction may be applied to

1 the increase and the result added to the preceding year's count of
2 students eligible to attend a choice district. If there is a decrease in
3 enrollment at any time during the duration of the program, the
4 number of students eligible to attend a choice district shall be the
5 number of students enrolled in the choice program in the initial year
6 of the district's participation in the program, provided that a student
7 attending a choice district school shall be entitled to remain
8 enrolled in that school until graduation.

9 **'[(5)] (3)'** The calculation of the enrollment of a sending
10 district shall be based on the enrollment count as reported on the
11 Application for State School Aid in October preceding the school
12 year during which the restriction on enrollment shall be applicable.

13 b. **'[The school board of a sending district may restrict**
14 enrollment of a student on the basis of an exceptional circumstance
15 that would affect the sending district's instructional program upon
16 the adoption of a resolution detailing the reasons for the restriction.
17 The restriction shall be subject to the approval of the commissioner.

18 c. **']'** A choice district shall not be eligible to enroll students on a
19 tuition basis pursuant to N.J.S.18A:38-3 while participating in the
20 interdistrict public school choice program. Any student enrolled on
21 a tuition basis prior to the establishment of the choice program shall
22 be entitled to remain enrolled in the choice district as a choice
23 student.

24
25 9. (New section) Transportation, or aid in-lieu-of
26 transportation, shall be provided to an elementary school pupil who
27 lives more than two miles from the **'[receiving] choice'** district
28 school of attendance and to a secondary school pupil who lives
29 more than two and one-half miles from the **'[receiving] choice'**
30 district school of attendance, provided the **'[receiving] choice'**
31 district school is not more than 20 miles from the residence of the
32 pupil. Transportation, or aid in-lieu-of transportation, shall be the
33 responsibility of **'[such district as designated in the application**
34 submitted pursuant to section 4 of P.L. , c. (C.) (pending
35 before the Legislature as this bill)] the sending district. The choice
36 district and the sending district may enter into a shared service
37 agreement in accordance with the "Uniform Shared Services and
38 Consolidation Act," sections 1 through 35 of P.L.2007, c.63
39 (C.40A:65-1 through C.40A:65-35)¹.

40
41 10. A choice district shall establish and maintain a parent
42 information center. The center shall collect and disseminate
43 information about participating programs and schools and shall
44 assist parents and guardians in submitting applications for
45 enrollment of students in an appropriate program and school. 'The
46 information about participating programs and schools shall be
47 posted on the choice district's website.'¹

- 1 11. (New section) The commissioner shall annually report to the
2 State Board of Education, the Legislature, and the Joint Committee
3 on the Public Schools on the effectiveness of the interdistrict public
4 school choice program. ¹The commissioner's annual report shall be
5 posted on the Department of Education's website and on the
6 website of each choice district.¹
7
8 12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413
9 (C.18A:36B-1 through 18A:36B-13) are repealed.
10
11 13. This act shall take effect immediately.