

LAWS OF DELAWARE  
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CHAPTER 316  
151st GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 270

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DISTRICT ENROLLMENT CHOICE PROGRAM FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 4, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 401. Establishment; statement of purpose.

(a) There is hereby established an enrollment choice program within the public school system of this State.

(b) In establishing this program, it is the goal of the General Assembly to increase access to educational opportunity for all children throughout the State regardless of where they may live. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice in obtaining access to educational opportunities for their children.

(c) For the school year commencing July 1, 1996, and each succeeding school year, a parent residing within this State may enroll that parent's child in a public school in any reorganized school district, vocational-technical school district, or charter school in the manner provided in this chapter.

(d) The forms prescribed and policies adopted pursuant to this chapter shall be available on the websites of the reorganized school districts, vocational-technical school districts, charter schools, and the Department of Education, and the online application.

§ 402. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(1) "Application" shall mean the standard application for educational options. This application shall be provided by the Department of Education, which consists of an online application or a written application.

(2) "Good cause" means a change in a child's residence due to a change in family residence, or a change in the state in which the family residence is located within 60 days of obtaining a new lease or mortgage, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, a change in a waitlist offer as defined in § 405(c) and § 405(d) of this title, participation by a child in a foreign exchange program, a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title, or participation by a child in a substance abuse or mental health inpatient or day treatment program, or a set of circumstances consistent with this definition of "good cause."

(3) "Online Application" shall mean the standard application receipt and processing tool approved by the Department of Education and used by all reorganized school districts, vocational-technical school districts, and charter schools.

(5) "Receiving local education agency" shall mean any public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions, other than the school district of residence, which administers any school or program in which a student seeks to enroll, including any receiving district. Where the local education agency is the school district of residence that includes more than 1 school or more than 1 program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving local education agency for all purposes of this chapter, except for the purposes of § 408 of this title. Notwithstanding § 505 of this title, the term "receiving local education agency" shall include charter schools, reorganized school district, vocational-technical school district or charter school.

§ 403. Pupil application; withdrawal.

(a) Any parent of a school age child may apply to enroll that parent's own child in a school or program in a ~~receiving local education agency~~ reorganized school district, vocational-technical school district, or charter school by submitting a an online application or written application, on a standard form provided by the Department of Education, to the Department of Education or to the receiving local education agency and to the district of residence on or after the first Monday in November and

on or before the second Wednesday in January for enrollment during the following school year, except that a parent may apply to a receiving local education agency until the first day of the school year for enrollment in a kindergarten program during that school year. Any student not currently registered in a public school in the State of Delaware must be registered in their school of residence before submitting a Delaware standard application for education options. The Department of Education shall distribute applications to the appropriate receiving local education agency no later than 10 working days after the application deadlines set forth in this subsection. Receiving districts may require the submission of information beyond that contained in the standard form provided that it requires the submission of the same information by the parents of children residing in the attendance zone for the school. Notwithstanding the requirements of this subsection, charter schools, vocational-technical school districts, and magnet schools may accept applications submitted after the second Wednesday in January to fill remaining availability.

(b) If a parent of a school age child fails to file an application by the deadline established in subsection (a) of this section, and good cause exists for the failure to meet the deadline, the receiving local education agency and the district of residence shall accept and consider the application in the same manner as if the deadline had been met.

(c) The parent of a school age child may withdraw the application at any time prior to action on the application by the board of the receiving local education agency by giving written notice to the boards of the receiving local education agency and the district of residence.

(d) The parent shall indicate on the standard form the schools and programs to which the parent is applying on behalf of his or her child, as well as the parent's order of preference of the schools or programs.

§ 405. Criteria for approval or disapproval.

(a) Each receiving local education agency shall adopt and make available a policy regarding the order in which applications for enrollment pursuant to this chapter shall be considered and the criteria by which such applications shall be evaluated.

(b) Prior to the applicable application deadline established in § 403(a) of this title, each receiving district shall adopt and make available a policy establishing criteria for acceptance or rejection of applications and setting priorities for acceptances consistent with this section. Such criteria shall be reasonably related to the nature of the program or school for which the application is submitted and may not differ from the criteria used for acceptance or rejection of applications submitted by parents of children residing in the attendance zone of the school, if applicable, except that a district shall give priority to the following categories of students in the order listed:

(1) First, to returning students who continue to meet the requirements for the program or school, including students graduating from 1 school to another within a single program;

(2) Second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of the student's parent within the designated feeder pattern, if any, for the school; and

(3) Third, to the siblings of students ~~already~~ currently enrolled in the school or in a program in accordance with subsection (b)(2) of this section who will be returning to the school for the following academic year, provided that any siblings seeking priority under this paragraph meet the requirements for the program or school. Priority ~~may~~ must be given to siblings of students who live in the reorganized school district where the school is located, ~~over~~ and may be given to siblings of students who do not live in the reorganized school district where the school is located.

In addition to the above, a receiving district may next give priority to students who have designated the program or school as a first, second, or third choice; to students who live within the district; and to children of school employees; as long as they otherwise meet the criteria of the program or school. After a receiving district has admitted all qualifying students consistent with the criteria in this subsection, the receiving district shall use a lottery process to admit additional students and generate a ranked waiting list. The Department may verify the randomness of the lottery process.

(c) Each receiving local education agency shall accept applications, in a manner consistent with the policy adopted pursuant to this subsection, until there is a lack of capacity in each school and program. Students who meet the receiving local education agency's criteria for acceptance in the policy but who are not selected due to a lack of capacity in the school or program shall be placed on a ranked waiting list maintained by the receiving local education agency until the first day of the receiving local education agency's school year for which they applied.

(d) Consistent with subsection (b) of this section, a receiving local education agency may disapprove an application because of lack of capacity in a particular program or school. For purposes of this section, "capacity" means the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical

resources, specific program requirements, and class size for each grade level. For the purposes of this section, "lack of capacity" means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity.

(e) A district which is subject to a court-ordered desegregation plan may approve and disapprove applications in accordance with § 406(a) of this title.

§ 407. Duration of enrollment in receiving district.

(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2 year period, one of the following occurs:

- a. A pupil graduates from the school or completes the program;
- b. The pupil's parent or parents cease to be residents of the pupil's original district of residence;
- c. At the conclusion of any academic year during such 2-year period, the pupil ceases to meet the academic requirements for such school or program;

d. If daycare was indicated on the relevant choice application as a reason for seeking enrollment, or if daycare was a reason for granting priority to consideration of or granting of the relevant choice application, or the provider of daycare services to the pupil ceases doing business or relocates to a location so distant from the original location as to render the original combination of daycare and choice enrollment no longer reasonably practicable for the pupil or the parent or parents of such pupil; or

e. The board of the district of residence, the board of the receiving district, and the parent or parents of the pupil agree for any reason to terminate such enrollment;

f. The provisions of paragraphs (a)(2) a. through (a)(2) e. of this section shall apply unless the receiving district, at its sole discretion, agrees to maintain a child in a choice placement. Due to the unique educational and developmental needs of primary age children, on a case by case basis, districts may grant exceptions to allow students in grades kindergarten through grade 3 to remain in school choice even if they fail to meet required educational standards;

g. The pupil's parents or guardians wish to terminate the agreement due to ~~a reported, recorded, and substantiated instance of "bullying" as defined in § 4112D of this title~~ a set of circumstances consistent with the definition of "good cause" defined in § 402 of this title.

Section 2. Amend § 506, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 506. Restrictions.

(b) Preferences in student admissions may be given to:

- (1) Siblings of students currently enrolled at the school;

(c)(1) On or before April 1 of each school year, a charter school shall have enrolled, at a minimum, 80% of its total authorized number of students, and the administrator of each charter school shall, pursuant to the requirements below, provide a written certification of that enrollment to the Department of Education and to the superintendent of each public school district in which 1 or more of the charter school's students reside.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, or a change in the state in which the family residence is located within 60 days of obtaining a new lease or mortgage, a change in ~~the marital status of the child's parents~~ a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, a change in a waitlist offer as defined in § 405(c) and § 405(d) of this title, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health inpatient or day treatment program, a reported, recorded and substantiated instance of "bullying" against their child as defined in § 4161 of this title, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

Section 3. This Act shall take effect beginning with the enrollment process for the 2022-2023 school year.

Approved June 14, 2022