SPONSOR: Rep. K. Williams & Sen. Poore
Reps. Barbieri, Baumbach, Bennett, Bolden, Jaques, Q. Johnson, Keeley, Kowalko, Longhurst, Miro, Mitchell, Osienski, Schwartzkopf, Scott, Viola; Sens. Blevins, Henry, Peterson, Sokola, Townsend

HOUSE OF REPRESENTATIVES

147th GENERAL ASSEMBLY

HOUSE BILL NO. 90
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION AND THE SCHOOL DISTRICT ENROLLMENT CHOICE PROGRAM.

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

Section 1. Amend Title 14, § 401 of the Delaware Code by making insertions as shown by underlining as follows:

§ 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 school district 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 school districts and the Department of Education.

Section 2. Amend Title 14, § 403 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 402. Definitions.

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

HD : SLT : TEH:1031470075
LC : JWH : RAY:0661470026

(1) "District of residence" shall mean any reorganized school district in which the parent of a student resides.

(2) "Good cause" shall mean a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, 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, participation by a child in a foreign exchange program, or participation by a child in a substance abuse or mental health treatment program, or a set of circumstances consistent with this definition of "good cause."

(3) "Parent" shall mean parent, relative caregiver pursuant to § 202(f) of this title or legal guardian of the person of the child.

(4) "Receiving district" shall mean any reorganized school district other than the district of residence in which a student seeks to enroll. Where the district of residence includes more than one school or more than one 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 district for all purposes of this chapter, except for the purposes of § 408 of this title.

(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. Where the local education agency is the school district of residence that includes more than one school or more than one 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.

~~(5)~~(6) "Working days" shall mean working days as determined by a school district's administrative calendar.

Section 3: Amend Title 14, § 403 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 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 ~~district~~ local education agency by submitting a written application, on a standard form provided by the

Department of Education, to the Department of Education or to the receiving district and to the district of residence on or before the second Wednesday in January for enrollment during the following school year ~~in a program in grades 1 through 12,~~, except that a parent may apply to a receiving district ~~or on or before~~ until the first day of the school year for enrollment in a kindergarten program during that school year. 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 may accept applications submitted after the second Wednesday in January.

(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 district 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 district by giving written notice to the boards of the receiving district 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.

Section 4. Amend Title 14, § 404 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 404. Receiving district procedures.

(a) Within 10 working days of receiving an application, the receiving district shall transmit a notice to the district of residence that it has received the application.

(b) The board of the receiving district shall take action no later than the last day of February of the school year preceding enrollment to approve or disapprove an application for admission to a program in grades 1 through 12, and no later than June 15 of the school year preceding enrollment to approve or disapprove an application for admission to a kindergarten program.

(c) With respect to any application filed in accordance with the provisions of § 403(b) of this title, the board of the receiving district shall take action to approve or disapprove the application no later than 45 days after receipt thereof.

(d) The board of the receiving district shall transmit a notice of the board's action to the parent of the child, and to the board of the district of residence within 5 working days after board action.

(e) No later than November 30 of each year, the board of each receiving district shall transmit to the Department of Education notice of the capacity of each school in the receiving district for the following academic year and the projected enrollment for the following academic year. The capacity and projected enrollment figures may be revised until January 30. For the purposes of this subsection, "capacity" shall have the same meaning as set forth in § 405(c) of this title, and "projected enrollment" shall mean the total number of returning students and new attendance zone students the receiving district anticipates will enroll for the following academic year.

(f) No later than October 31 of each year, each receiving district shall hold at least one public information session about choice opportunities available in schools and programs in that district for the coming academic year.

Section 5. Amend Title 14, § 405 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 405. Criteria for approval or disapproval.

(a) Each receiving district shall adopt and make available ~~upon request~~ 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), each receiving district shall adopt and make available ~~upon request~~ 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 ~~Such criteria shall include the authority of the receiving district to reject an application based upon the requirements of any applicable existing individualized education plan relating to an applicant who has special needs. The policies adopted by each district shall, at a minimum,~~ 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 enrolled in the school 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 be given to siblings of students who live in the district over siblings of students who do not live in the district.

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.

Each receiving district 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 within that receiving district. Students who meet the receiving district'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 district until June 30.

(c) Consistent with subsection (b) of this section, a~~A~~ receiving district may disapprove an application because of lack of capacity in ~~the district. It may also disapprove an application for~~ a particular program or school ~~because of lack of capacity in the 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, and class size for each grade level. For the purposes of this ~~sub~~section, "lack of capacity" ~~shall include but not be limited to such considerations as space, class size and enrollment restrictions reasonably related to the nature of the program or school for which the application is submitted~~ means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity.

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

Section 6. Amend Title 14, § 411 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 411. Pupils suspended, ~~or~~ expelled, or truant in district of residence.

If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled, or has been absent from school without a valid excuse for more than 15 school days during a school year, in the district of residence, the board of the receiving district may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the receiving district until the child has been reinstated in the district of residence, provided, however that nothing in this section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is limited by the provisions of § 4130 of this title. "Valid excuse" shall have the same meaning as in § 2721 of this title.

Section 7. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 8. An "Enrollment Preferences Task Force" is hereby established to consider the current landscape of enrollment preferences and practices used by magnet, vocational technical, and charter schools and develop recommendations, if necessary. The Enrollment Preferences Task Force shall be composed of the following members:

(a) Two members of the Delaware State Senate appointed by the President Pro Tempore or designee, one of whom shall act as a co-chairperson of the Task Force;

(b) Two members of the Delaware State House of Representatives appointed by the Speaker of the House of Representatives or designee, one of whom shall act as a co-chairperson of the Task Force;

(c) The Secretary of the Delaware Department of Education or designee;

(d) The president of the Delaware State Board of Education or designee;

(e) The president of the Delaware State Education Association or designee;

(f) The president of the Delaware School Boards Association or designee;

(g) The president of the Delaware Parent Teacher Association or designee;

(h) The president of the Charter Schools Network or designee;

(i) A representative from the Delaware Business Roundtable appointed by the chair of the Delaware Business Roundtable Education Committee;

(j) A representative from the Governor's Advisory Council for Exceptional Citizens ("GACEC") appointed by the Council Chair;

(k) A representative from the Office of the Governor appointed by the Governor;

(l) One superintendent from each county, or designee, appointed by the president of the Chief School Officers Association;

(m) One school administrator appointed by the president of the Delaware Association of School Administrators or designee;

(n) The superintendent of each of the Vocational Technical Districts or designee(s);

(o) Two representatives from Magnet Schools or Programs appointed by the Secretary of the Delaware Department of Education in consultation with the President of the Chief School Officers Association;

(p) Two representatives from Charter Schools with selective enrollment criteria appointed by the Secretary of the Delaware Department of Education in consultation with the Charter Schools Network; and

(q) Three parents appointed by the Secretary of the Department of Education or designee.

The Task Force shall present a final report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate by January 31, 2014.

Section 9. This Act shall become effective on July 1, 2013.