

HOUSE BILL 245

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Rebecca Dow and Alan T. Martinez and Rod Montoya

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING THAT A PUBLIC SCHOOL SHALL NOT DENY ENROLLMENT TO A SCHOOL-AGE PERSON ON THE BASIS OF RACE, ETHNICITY, SEX, RELIGION, DISABILITY, SOCIOECONOMIC STATUS OR RESIDENTIAL ADDRESS; LIMITING A LOCAL SCHOOL BOARD'S ABILITY TO ESTABLISH ENROLLMENT PREFERENCES; REQUIRING LOCAL SCHOOL BOARDS TO DETERMINE THE CAPACITY OF EACH PUBLIC SCHOOL BY GRADE LEVEL, POST THE NUMBER OF VACANCIES AT LEAST ONCE EVERY TWELVE WEEKS AND ENROLL APPLICANTS THROUGHOUT THE YEAR ON A FIRST-COME, FIRST-SERVED BASIS IF CAPACITY Allows; REQUIRING LOCAL SCHOOL BOARDS TO REPORT ANNUALLY TO THE PUBLIC EDUCATION DEPARTMENT ON ENROLLMENT DATA FOR EACH PUBLIC SCHOOL AND REQUIRING THE DEPARTMENT TO PUBLISH THAT DATA ON THE DEPARTMENT'S WEBSITE; MAKING CONFORMING AMENDMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 SECTION 1. Section 22-1-4 NMSA 1978 (being Laws 1975,
2 Chapter 338, Section 1, as amended) is amended to read:

3 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND
4 ENROLLING--OPEN ENROLLMENT.--

5 A. Except as provided by Section 24-5-2 NMSA 1978,
6 and except as provided in Subsection [H] J of this section, a
7 free public school education shall be available to any school-
8 age person who is a resident of this state and has not received
9 a high school diploma or its equivalent.

10 B. A free public school education in those courses
11 already offered to persons pursuant to the provisions of
12 Subsection A of this section shall be available to any person
13 who is a resident of this state and has received a high school
14 diploma or its equivalent if there is available space in such
15 courses.

16 C. A person entitled to a free public school
17 education pursuant to the provisions of this section may enroll
18 or re-enroll in a public school at any time and, unless
19 required to attend school pursuant to the Attendance for
20 Success Act, may withdraw from a public school at any time. A
21 public school shall not deny enrollment to a school-age person
22 on the basis of race, ethnicity, sex, religion, disability,
23 socioeconomic status or residential address.

24 D. In adopting and promulgating rules concerning
25 the enrollment of students transferring from a home school or

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1 private school to the public schools, the local school board
2 shall provide that the grade level at which the transferring
3 student is placed is appropriate to the age of the student or
4 to the student's score on a student achievement test
5 administered according to the statewide assessment and
6 accountability system.

7 E. A local school board shall adopt and promulgate
8 rules [governing] allowing enrollment and re-enrollment of any
9 student at any public [schools] school, other than a charter
10 [schools] school, within the school district. These rules
11 shall include:

12 (1) definition of the school district boundary
13 and the boundaries of attendance areas for each public school;

14 (2) for each public school, definition of the
15 boundaries of areas outside the school district boundary or
16 within the school district but outside the public school's
17 attendance area and within a distance of the public school that
18 would not be served by a school bus route as determined
19 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas
20 shall be designated as "walk zones";

21 (3) priorities for enrollment of students as
22 follows:

23 (a) first, students residing within the
24 school district, or who will be residing within the school
25 district if the student is a child in a military family who

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1 will be attending public school in the school district during
2 the upcoming school year as provided in Subsection [H] J of
3 this section, and within the attendance area of a public school
4 and students who had resided in the attendance area prior to a
5 parent who is an active duty member of the armed forces of the
6 United States or member of the national guard being deployed
7 and whose deployment has required the student to relocate
8 outside the attendance area for custodial care;

9 (b) second, students who previously
10 attended the public school or are the children of a military
11 family living in temporary housing and are assigned, awaiting
12 placement or pending a move to permanent housing in a different
13 attendance area where the students' family seeks enrollment of
14 the students in either their current school attendance area or
15 the school attendance area of the permanent housing; and

16 (c) third, all other applicants;

17 (4) establishment of maximum allowable class
18 size if smaller than that permitted by law; and

19 (5) rules pertaining to grounds for denial of
20 enrollment or re-enrollment at schools within the school
21 district ~~[and the school district's hearing and appeals process~~
22 ~~for such a denial]~~. Grounds for denial of enrollment or re-
23 enrollment shall be limited to:

24 (a) a student's expulsion from any
25 school district or private school in this state or any other

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state during the preceding twelve months; or
(b) a student's behavior in another school district or private school in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school employees.

F. A student's parent who is aggrieved by a public school's denial of enrollment to the student may appeal the denial to the secretary. If a transfer application has not been acted upon by a local school board within thirty days of receiving the application, the transfer shall be deemed approved for enrollment. The department shall promulgate rules for the process to appeal a denial; provided that:

(1) only a school's lack of capacity or the grounds for denial set forth in Paragraph (5) of Subsection E of this section may support a denial of enrollment; and

(2) the secretary's decision on an appeal shall be made within a reasonable time, shall be in writing and shall be a final decision on the matter.

[F.] G. In adopting and promulgating rules governing enrollment and re-enrollment at public schools other than charter schools within the school district, a local school board may establish additional enrollment preferences for rules admitting students [in accordance with the second and third priorities of enrollment set forth in Subparagraphs (b) and (e) of Paragraph (3) of Subsection E of this section]. The

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1 additional enrollment preferences may include:
2 ~~(1) after school child care for students;~~
3 ~~(2) child care for siblings of students~~
4 ~~attending the public school;~~
5 ~~(3)~~ (1) children of employees employed at the
6 public school; and
7 ~~(4) extreme hardship;~~
8 ~~(5) location of a student's previous school;~~
9 ~~(6)~~ (2) siblings of students already
10 attending the public school and
11 ~~(7) student safety~~].

12 [G.] H. As long as the maximum allowable class size
13 established by law or by rule of a local school board,
14 whichever is lower, is not met or exceeded in a public school,
15 ~~[by enrollment of first- and second-priority persons]~~ the
16 public school shall enroll other persons applying ~~[in the~~
17 ~~priorities stated in the school district rules adopted pursuant~~
18 ~~to Subsections E and F of this section]~~ on a first-come, first-
19 served basis. If the maximum would be exceeded by enrollment
20 of ~~[an applicant in the second and third priorities]~~ all
21 applicants, the public school shall establish a waiting list.
22 As classroom space becomes available, persons highest on the
23 waiting list ~~[within the highest priority on the list]~~ shall be
24 notified and given the opportunity to enroll.

25 I. A local school board shall determine the

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capacity of each public school in the local school board's district by grade level; provided that this requirement shall not apply to specialized programs. A public school shall post the number of vacancies for each grade level on the school's website at least once every twelve weeks. If a public school has capacity, the school shall enroll students throughout the school year.

[H.] J. Every school district and charter school shall allow military families that will be relocating to a military installation in New Mexico pursuant to an official military order to enroll their children in public school prior to their actual physical presence in the school district. A parent may submit the student's name for any lottery-selected charter school, magnet school or other public school program for which the student qualifies. The school district or charter school shall accept electronic applications for enrollment, including enrollment in a specific school or program with the school district or charter school. The school district or charter school shall provide the applicant with materials regarding academic courses, electives, sports and other relevant information regarding the public school in which the student wants to be enrolled. The public school shall preregister the student in anticipation of the student's enrollment. A student's parent:

(1) shall provide proof of residence in the

1 school district within forty-five days after the published
2 arrival date provided on official military documentation; and

3 (2) may use any of the following addresses
4 related to the family's military move:

5 (a) a temporary on-base billeting
6 facility;

7 (b) off-base military housing; or

8 (c) a purchased or leased residence.

9 K. A local school board shall report annually to
10 the department on the enrollment data for each public school in
11 the local school board's district, including transfer
12 applications, acceptances, denials, the reason for each denial
13 and the number of resident students who transferred to a school
14 outside of the student's attendance area. The department shall
15 publish the data from these reports annually on the
16 department's website."