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SENATE BILL 120

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Harold Pope

AN ACT

RELATING TO PUBLIC EDUCATION; ALLOWING FOR OPEN ENROLLMENT  
FLEXIBILITY FOR CHILDREN OF MILITARY FAMILIES.

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

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

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

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

B. A free public school education in those courses  
already offered to persons pursuant to the provisions of

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1 Subsection A of this section shall be available to any person  
2 who is a resident of this state and has received a high school  
3 diploma or its equivalent if there is available space in such  
4 courses.

5 C. A person entitled to a free public school  
6 education pursuant to the provisions of this section may enroll  
7 or re-enroll in a public school at any time and, unless  
8 required to attend school pursuant to the Attendance for  
9 Success Act, may withdraw from a public school at any time.

10 D. In adopting and promulgating rules concerning  
11 the enrollment of students transferring from a home school or  
12 private school to the public schools, the local school board  
13 shall provide that the grade level at which the transferring  
14 student is placed is appropriate to the age of the student or  
15 to the student's score on a student achievement test  
16 administered according to the statewide assessment and  
17 accountability system.

18 E. A local school board shall adopt and promulgate  
19 rules governing enrollment and re-enrollment at public schools  
20 other than charter schools within the school district. These  
21 rules shall include:

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

24 (2) for each public school, definition of the  
25 boundaries of areas outside the school district boundary or

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1 within the school district but outside the public school's  
2 attendance area and within a distance of the public school that  
3 would not be served by a school bus route as determined  
4 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas  
5 shall be designated as "walk zones";

6 (3) priorities for enrollment of students as  
7 follows:

8 (a) first, students residing within the  
9 school district, or who will be residing within the school  
10 district if the student is a child in a military family who  
11 will be attending public school in the school district during  
12 the upcoming school year as provided in Subsection H of this  
13 section, and within the attendance area of a public school and  
14 students who had resided in the attendance area prior to a  
15 parent who is an active duty member of the armed forces of the  
16 United States or member of the national guard being deployed  
17 and whose deployment has required the student to relocate  
18 outside the attendance area for custodial care;

19 (b) second, students who previously  
20 attended the public school or students who had resided in the  
21 attendance area prior to a custodial parent who is an active  
22 duty member of the armed forces of the United States moving or  
23 pending a move from temporary to permanent housing or are  
24 pending a move from temporary to permanent housing into the  
25 attendance area of a public school; and

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1 (c) third, all other applicants;

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

4 (5) rules pertaining to grounds for denial of  
5 enrollment or re-enrollment at schools within the school  
6 district and the school district's hearing and appeals process  
7 for such a denial. Grounds for denial of enrollment or re-  
8 enrollment shall be limited to:

9 (a) a student's expulsion from any  
10 school district or private school in this state or any other  
11 state during the preceding twelve months; or

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

16 F. In adopting and promulgating rules governing  
17 enrollment and re-enrollment at public schools other than  
18 charter schools within the school district, a local school  
19 board may establish additional enrollment preferences for rules  
20 admitting students in accordance with the second and third  
21 priorities of enrollment set forth in Subparagraphs (b) and (c)  
22 of Paragraph (3) of Subsection E of this section. The  
23 additional enrollment preferences may include:

24 (1) after-school child care for students;

25 (2) child care for siblings of students

1 attending the public school;

2 (3) children of employees employed at the  
3 public school;

4 (4) extreme hardship;

5 (5) location of a student's previous school;

6 (6) siblings of students already attending the  
7 public school; and

8 (7) student safety.

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

21 H. Every school district and charter school shall  
22 allow military families that will be relocating to a military  
23 installation in New Mexico pursuant to an official military  
24 order to enroll their children in public school prior to their  
25 actual physical presence in the school district. A parent may

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1 submit the student's name for any lottery-selected charter  
2 school, magnet school or other public school program for which  
3 the student qualifies. The school district or charter school  
4 shall accept electronic applications for enrollment, including  
5 enrollment in a specific school or program with the school  
6 district or charter school. The school district or charter  
7 school shall provide the applicant with materials regarding  
8 academic courses, electives, sports and other relevant  
9 information regarding the public school in which the student  
10 wants to be enrolled. The public school shall preregister the  
11 student in anticipation of the student's enrollment. A  
12 student's parent:

13 (1) shall provide proof of residence in the  
14 school district within forty-five days after the published  
15 arrival date provided on official military documentation; and

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

18 (a) a temporary on-base billeting  
19 facility;

20 (b) off-base military housing; or

21 (c) a purchased or leased residence."

22 SECTION 2. Section 22-8B-4.1 NMSA 1978 (being Laws 2000,  
23 Chapter 82, Section 3, as amended) is amended to read:

24 "22-8B-4.1. CHARTER SCHOOLS' ENROLLMENT PROCEDURES.--

25 A. Start-up schools and conversion schools are

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1 subject to the following enrollment procedures:

2 (1) a start-up school may either enroll  
3 students on a first-come, first-served basis or through a  
4 lottery selection process if the total number of applicants  
5 exceeds the number of spaces available at the start-up school;  
6 and

7 (2) a conversion school shall give enrollment  
8 preference to students who are enrolled in the public school at  
9 the time it is converted into a charter school and to siblings  
10 of students admitted to or attending the charter school. The  
11 conversion school may either enroll all other students on a  
12 first-come, first-served basis or through a lottery selection  
13 process if the total number of applicants exceeds the number of  
14 spaces available at the conversion school.

15 B. In subsequent years of its operation, a charter  
16 school shall give enrollment preference to:

17 (1) students who have been admitted to the  
18 charter school through an appropriate admission process and  
19 remain in attendance through subsequent grades;

20 (2) children of employees employed by the  
21 charter school; ~~and~~

22 (3) siblings of students already admitted  
23 to or attending the same charter school; and

24 (4) children of active duty military service  
25 members stationed in or pending assignment to an installation

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