

AN ACT

AMENDING THE ENROLLMENT PROCEDURES FOR STUDENTS IN CHARTER SCHOOLS; DECLARING AN EMERGENCY.

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

C. Any person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Compulsory School Attendance Law, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school

board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide and local school district testing programs as determined by the state superintendent or both.

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

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

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

(3) priorities for enrollment of students as follows:

(a) first, persons residing within the district and within the attendance area of a public school;

(b) second, persons who previously attended the public school; and

(c) third, all other applicants; and

(4) establishment of maximum allowable class size if smaller than that permitted by law.

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

Section 2. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

B. A charter school shall be administered and governed by a governing body in the manner set forth in the charter.

C. A charter school shall be responsible for its own operation, including preparation of a budget, contracting for services and personnel matters.

D. A charter school may negotiate or contract

with a local school district, a university or college or any third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter.

E. In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities; provided that the facilities can be made available at no cost to the district. All costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the district.

F. A charter school may negotiate with a local school district to provide transportation to students eligible for transportation under the provisions of the Public School Code.

G. A charter school may negotiate with a local school district for capital expenditures.

H. A charter school shall be a nonsectarian, nonreligious and non-home-based public school that operates within a public school district.

I. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

J. A charter school shall be subject to the provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

K. A charter school may acquire, pledge and

dispose of property; provided that upon termination of the charter, all assets of the charter school shall revert to the local school board that authorized the charter.

L. A charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

M. A charter school may contract and sue and be sued. A local school board that approves a charter school shall not be liable for any acts or omissions of the charter school.

N. A charter school shall comply with all state and federal health and safety requirements applicable to public schools."

Section 3. A new section of the 1999 Charter Schools Act, Section 22-8B-4.1 NMSA 1978, is enacted to read:

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

A. Start-up schools and conversion schools are subject to the following enrollment procedures:

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

(2) a conversion school shall give

enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school. The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

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

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

(2) siblings of students already admitted to or attending the same charter school."

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____