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SENATE BILL 384

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO PUBLIC EDUCATION; REQUIRING A SCHOOL DISTRICT OR
CHARTERING AUTHORITY TO CLOSE A PUBLIC SCHOOL UNDER CERTAIN
CONDITIONS; ALLOWING PREFERENCES FOR STUDENT ENROLLMENT.

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]~~ a
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~~] a
2 person who is a resident of this state and has received a high
3 school diploma or its equivalent if there is available space in
4 such courses.

5 C. [~~Any~~] 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 [~~Compulsory School~~
9 ~~Attendance Law~~] Attendance for Success Act, may withdraw from a
10 public school at any time.

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

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

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

25 (2) for each public school, definition of the

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

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

9 (a) first, students residing within the
10 school district and within the attendance area of a public
11 school and students who had resided in the attendance area
12 prior to a parent who is an active duty member of the armed
13 forces of the United States or member of the national guard
14 being deployed and whose deployment has required the student to
15 relocate outside the attendance area for custodial care;

16 [~~(b) second, students enrolled in a~~
17 ~~school rated as "F" for two of the prior four years pursuant to~~
18 ~~the A-B-C-D-F Schools Rating Act;~~

19 ~~(c) third]~~ (b) second, students who
20 previously attended the public school; ~~[and]~~

21 (c) third, students who attended a
22 public school that was not a charter school and that was closed
23 pursuant to Section 2 of this 2021 act; and

24 (d) fourth, all other applicants;

25 (4) establishment of maximum allowable class

1 size if smaller than that permitted by law; and

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

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

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

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

- 22 (1) after-school child care for students;
23 (2) child care for siblings of students
24 attending the public school;
25 (3) children of employees employed at the

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1 public school;

2 (4) extreme hardship;

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

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

6 (7) student safety.

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

19 SECTION 2. A new section of the Assessment and
20 Accountability Act is enacted to read:

21 "[NEW MATERIAL] CLOSURE OF PUBLIC SCHOOL--PARENTAL
22 DEMAND.--

23 A. A local school board or chartering authority if
24 the school is a charter school shall close a public school if at
25 least fifty percent of the parents of the students attending

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1 that public school sign a petition during the school year
2 demanding closure based on low student academic performance,
3 ineffective teacher performance or poor management and present
4 that petition to the local school board or chartering authority
5 within the same school year.

6 B. If a petition is delivered to a local school
7 board or chartering authority pursuant to Subsection A of this
8 section, the school shall be closed at the end of the semester
9 in which the petition is delivered.

10 C. A public school that is closed pursuant to this
11 section shall not reopen in the school year in which it is
12 closed. To reopen in a subsequent school year, a public school
13 closed pursuant to this section shall meet the following
14 conditions:

15 (1) the public school has employed new
16 leadership, including the school principal and vice principal or
17 head administrator, deputy or vice head administrator or other
18 equivalent positions; provided that if the school is a charter
19 school, the chartering authority shall replace at least fifty
20 percent of the governing body members prior to the governing
21 body employing new leadership;

22 (2) the public school has employed new
23 licensed school employees; provided that a licensed school
24 employee who was employed at the public school immediately
25 preceding its closure may reapply for employment with the school

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1 if it is reopened and may be rehired if the new school
2 leadership determines rehire is in the best interest of the
3 students and the school;

4 (3) for a public school that does not receive
5 a condition rating, as measured by the New Mexico condition
6 index in the Public School Capital Outlay Act, equal to or
7 better than the average condition for all New Mexico public
8 schools during the year in which that school is closed, the
9 public school shall achieve a rating equal to or better than the
10 average New Mexico condition index prior to reopening; and

11 (4) the public school has engaged in
12 significant outreach to the school community, including parents,
13 students, school employees and other community members, and has
14 developed, in collaboration with the school community, a
15 reopening plan that identifies the root causes of low student
16 academic performance, ineffective teacher performance or poor
17 management and enumerates the goals of the school community and
18 the ways in which those goals shall be achieved.

19 D. A student who attended a closed public school
20 that is not a charter school shall be granted preference to
21 transfer to another noncharter public school within the school
22 district. A student shall not be granted preference to attend a
23 charter school. The school district shall not be responsible
24 for providing transportation to students transferring pursuant
25 to this subsection."

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.