

AN ACT
RELATING TO EDUCATION; PROVIDING CONDITIONS UNDER WHICH LOCAL
SCHOOL BOARDS MAY PROVIDE AND DENY ENROLLMENT OR
RE-ENROLLMENT; AMENDING A SECTION OF THE NMSA 1978.

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 by Laws 2000, Chapter 15, Section 1 and also by Laws 2000, Chapter 82, Section 1) 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 school district. These rules shall include:

(1) definition of the school 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 school district boundary or within the school 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 school 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;

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

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

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

F. In adopting and promulgating rules governing

enrollment and re-enrollment at public schools other than charter schools within the 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 (c) of Paragraph (3) of Subsection E of this section. The additional enrollment preferences may include:

- (1) after school child care for students;
- (2) child care for siblings of students attending the public school;
- (3) children of employees employed at the public school;
- (4) extreme hardship;
- (5) location of a student's previous school;
- (6) siblings of students already attending the public school; and
- (7) student safety.

G. 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 school district rules adopted pursuant to Subsections E and F of this section. If the maximum would be exceeded by enrollment of an applicant in the second or third priority,

the public 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." _____