

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Expand Educational Opportunities for Maine Students

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 20-A MRSA §2701, as amended by PL 1985, c. 797, §17, is further amended to read:

§ 2701. Authority to contract for school privileges

The legislative body of a school administrative unit other than a school administrative district, ~~which~~that does not maintain any of the grades from kindergarten to grade 12; may authorize its school board to contract with another school for school privileges for all or a part of its resident students in those grades for a term of 2 to 10 years. A contract entered into under this chapter on or after August 1, 2012 may not prohibit a student residing in the sending school administrative unit from enrolling in an open enrollment school under section 5207.

Sec. A-2. 20-A MRSA §5205, sub-§9 is enacted to read:

9. Transfer of open enrollment students. A student who enrolls pursuant to section 5207 in an open enrollment school that is a public school is deemed to be a resident of the school administrative unit in which the school is located and that student is included in the count of subsidizable pupils of the open enrollment school's school administrative unit for the purposes of chapter 606-B. Upon the first October 1st count of subsidizable pupils for which a student is enrolled in an open enrollment school pursuant to section 5207, the count of subsidizable pupils for the immediately prior April 1st must be adjusted to reflect the transfer of the student to the open enrollment school's school administrative unit by adding the count to the open enrollment school's school administrative unit and removing the count from the school administrative unit from which the student was enrolled on that April 1st. As used in this subsection, "subsidizable pupils" has the same meaning as in section 15672, subsection 32.

Sec. A-3. 20-A MRSA §5207 is enacted to read:

§ 5207. Maine Open Enrollment Program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible school" means a public school, other than a public charter school, and a private school approved for tuition purposes.

B. "Open enrollment school" means an eligible school whose governing body has elected to include the school in the program.

C. "Open enrollment student" means a student enrolled in an open enrollment school pursuant to this section.

D. "Program" means the Maine Open Enrollment Program created in this section.

E. "Sending school unit" means the school administrative unit in which the student is entitled to enroll pursuant to section 5202.

2. Program created. The Maine Open Enrollment Program is created to expand the publicly funded educational opportunities available to students in the State.

3. Decision to participate in the program. The governing body of an eligible school may elect to participate in the program by designating that school as an open enrollment school.

A. Prior to making an election under this subsection, the governing body shall determine:

(1) The limits, if any, on the grades or programs in which students will be offered enrollment opportunities;

(2) Whether it will provide or arrange for transportation for open enrollment students;

(3) The policy on enrollment of students who are expelled from their sending school units;

(4) The process by which the school or the governing body will determine how many openings are available, age eligibility for the openings, when the number of openings will be determined and how it will provide public notice of the openings; and

(5) The selection process, which must be random, that will be used pursuant to subsection 8 to determine enrollment if the number of students seeking enrollment exceeds the number of openings available in a grade or program.

B. The governing body of an open enrollment school may elect to end the participation of the school in the program. Ending participation means that a school is no longer accepting applications for open enrollment, but a student enrolled in the school under this section prior to the effective date of the end of participation retains the right to enroll in the school until completion of the educational program at the school.

4. Annual determination of openings; notice of openings and cost. An open enrollment school or its governing body shall annually determine and publicize the number and types of openings available at the school under the program. The school shall make available to the public information about its curriculum and policies that govern students in the school. Before accepting applications, an open enrollment school that is a private school shall publicize the school's cost for tuition and fees, and the amount of tuition that will be paid by the sending school unit.

5. Eligible students. The following students are eligible to apply to enroll under this section in an open enrollment school:

- A. With regard to enrollment in a public school, a student who resides in the State, but whose residence pursuant to section 5202 is outside the boundaries of the public school's school administrative unit; and
- B. With regard to enrollment in a private school approved for tuition purposes, a student who resides in the State, but who is not entitled to attend that private school at public expense pursuant to section 5203 or 5204.

6. Application process. An open enrollment school shall establish an application deadline between March 1st and March 21st. A student eligible to participate under subsection 5 may submit an application to one or more open enrollment schools for enrollment in the following school year. The department shall provide a uniform application form to be used in this process. An open enrollment school shall notify a student not later than April 21st of the student's eligibility to enroll in that open enrollment school. The open enrollment school shall notify a student's sending school unit of the student's enrollment in the open enrollment school within 10 school days of receiving a student's commitment to enroll in the open enrollment school.

7. Enrollment basis. Enrollment in an open enrollment school under this section may not be granted or denied on the basis of a student's intellectual, academic, artistic or athletic ability or on any basis that would violate state or federal laws prohibiting discrimination.

- A. An open enrollment school may refuse to enroll a student who is expelled from the student's sending school unit during the application period for the open enrollment school.
- B. Students whose enrollment privileges are provided by sections 5202 to 5206 and the siblings of students who are enrolled in an open enrollment school at the time of the siblings' application are entitled to enroll in the open enrollment school before any other student applying to enroll in the open enrollment school under this section.

8. Random selection process. If the number of students submitting applications by the deadline under subsection 6 exceeds the number of openings in a grade or program, an open enrollment school shall select students for that grade or program by lottery or other random selection process. The selection process must be conducted in public, after at least one week's public notice. The school shall record the names of students in the order selected until all names have been selected. Students selected after the openings are filled are placed on a waiting list in the order selected and may be offered enrollment, if openings become available, up to the end of the first week of the school year.

9. Continued enrollment; change in residence. A student enrolled under this section in an open enrollment school that is a public school is a resident of the open enrollment school's school administrative unit for purposes of this Title and remains a resident of the unit until:

- A. The student graduates from the open enrollment school;

B. The student enrolls in a different open enrollment school;

C. The student's residence as determined under section 5202 changes and the student's parents elect to have the student's residence determined under section 5202 rather than this section; or

D. The student's residence is transferred pursuant to section 5205, subsection 6.

10. Transportation. The parent of an open enrollment student is responsible for transporting the student to the open enrollment school. An open enrollment school may provide transportation for its open enrollment students if the governing body of the school determines to do so.

11. Funding of open enrollment students. This subsection governs funding of open enrollment students.

A. The count of a student in an open enrollment school that is a public school must be transferred pursuant to section 5205, subsection 9.

B. The sending school unit of a student who enrolls in an open enrollment school that is a private school approved for tuition purposes shall pay tuition for that student as calculated for the private school pursuant to chapter 219.

12. Special education responsibility and funding. A school administrative unit that enrolls a student under this section is deemed to be the school administrative unit in which the student resides for purposes of responsibility for complying with the federal Individuals with Disabilities Education Act, 20 United States Code, Chapter 33, as amended, and state special education laws. Notwithstanding any other law, this responsibility shifts to the open enrollment school's unit on the first day of school, unless the sending school unit and the unit in which the student is enrolling agree to an earlier date. In the first year of enrollment under this section of a student's receiving services under an individualized education program, the school administrative unit providing special education services is entitled to receive the cost of services under the individualized education program from the student's sending school unit. The open enrollment school providing services shall bill the sending school unit for the cost of services, but not more than the sending school unit's special education per-pupil rate established pursuant to section 15681-A for the first 15% of that unit's students.

PART B

Sec. B-1. 20-A MRS §5205, sub-§6, ¶A-1 is enacted to read:

A-1. A superintendent who receives a transfer request under this subsection shall provide to the parent or student making the request a written decision approving the request or setting forth the reason for denial.

Sec. B-2. 20-A MRS §5205, sub-§6, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. On the request of the parent of a student ~~requesting~~whose request for transfer under paragraph A has been denied, the commissioner shall review the denial of the transfer request. The commissioner's decision ~~shall be~~ final and binding.

Sec. B-3. 20-A MRSA §5205, sub-§6, ¶B-1 is enacted to read:

B-1. The commissioner shall overturn a superintendent's denial of a transfer request under this subsection if:

(1) The school to which the student seeks to transfer has space to accept the student; and

(2) The commissioner:

(a) Disagrees with the superintendent's determination of the student's best interest; or

(b) Determines that the superintendent's decision was based on a policy to deny all such requests.

SUMMARY

This bill creates a school open enrollment program under which a student may attend a school other than the school to which that student is assigned based on the street address of the student's family.

The bill provides that the governing bodies of public schools and private schools approved for the receipt of public funds may elect to open their schools to enrollment by students who are not otherwise entitled to attend those schools. Opening the school to enrollment is voluntary, but the school may not select which students to enroll under the program. The student is not required to obtain permission from the superintendent of the school administrative unit of which the student is a resident in order to enroll in the open enrollment school. The governing bodies of open enrollment schools are required to set forth a process to determine how many openings will be made available to students and in which grades or programs the openings will be offered. Contracts for school privileges may not prevent students from participating in the open enrollment program.

A student who transfers from a public school in one school administrative unit to a public school in another unit under the program is considered to be a resident of the unit to which the student transfers. The student is counted as a student in the new unit, as a student is under an agreement between superintendents to transfer a student, but the change in residence is included in the funding formula earlier than it would be under an agreement between superintendents. The school administrative unit in which a student actually resides is required to pay tuition if that student enrolls under the program in a private school approved for the receipt of public funds.

The bill also amends current law under which superintendents of 2 school administrative units may grant a parent's request to have a student's residency transferred from one school unit to another. If one or both superintendents deny the transfer request, the parent may appeal to the Commissioner of Education.

The bill requires that superintendents provide written reasons for any denial, and specifies the grounds on which the commissioner may overturn a denial.