STATE OF NEW YORK

9556

IN SENATE

March 24, 2026

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to establishing open enrollment schools

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The section heading of section 3202 of the education law is amended to read as follows:

[~~Public~~] **Free public** schools [~~free to resident pupils; tuition from nonresident pupils~~].

§ 2. Subdivisions 1, 2 and 3 of section 3202 of the education law, subdivision 1 as amended by section 47 of part PP of chapter 56 of the laws of 2022, are amended to read as follows:

1. A person over five and under twenty-one years of age who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides **or to attend an open enrollment school, as set forth in subdivision two of this section,** without the payment of tuition. Provided further that such person may continue to attend the public school in such district in the same manner, if temporarily residing outside the boundaries of the district when relocation to such temporary residence is a consequence of such person's parent or person in parental relationship being called to active military duty, other than training. Notwithstanding any other provision of law to the contrary, the school district shall not be required to provide transportation between a temporary residence located outside of the school district and the school the child attends. A veteran of any age who shall have served as a member of the armed forces of the United States and who (a) shall have been discharged therefrom under conditions other than dishonorable, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, may attend any of the

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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public schools of the state upon conditions prescribed by the board of education, and such veterans shall be included in the pupil count for state aid purposes. A nonveteran under twenty-one years of age who has received a high school diploma shall be permitted to attend classes in the schools of the district in which such person resides or in a school of a board of cooperative educational services upon payment of tuition under such terms and conditions as shall be established in regulations promulgated by the commissioner; provided, however, that a school district may waive the payment of tuition for such nonveteran, but in any case such a nonveteran who has received a high school diploma shall not be counted for any state aid purposes. Nothing herein contained shall, however, require a board of education to admit a child who becomes five years of age after the school year has commenced unless [~~his or her~~] **such child's** birthday occurs on or before the first of December.

2. Nonresidents of a district, if otherwise [~~competent, may be admitted~~] **eligible to enroll into a public school of this state are entitled to enroll** into the school or schools of [~~a~~] **another** district or city, [~~upon the consent of the trustees or the board of education, upon terms prescribed by such trustees or board~~] **if the nonresident district's board of education has adopted an open enrollment policy and enrolling the nonresident pupil is consistent with such policy**. **The policy shall be easily accessible from the homepage of the school district that adopted the open enrollment policy. The school district providing for open enrollment shall publish and keep updated on its website each open enrollment school's capacity and whether the school is currently accepting open enrollment pupils, by grade level, at least once every four weeks unless there are no changes to report for the individual school. The policy shall set forth the process for applying for enrollment, any deadlines that the open enrollment school sets, and the application form that interested families shall use. Open enrollment schools shall have a process for waiving any deadlines for applications for open enrollment. The adopted open enrollment policy shall require written notification of whether an application has been approved or denied within a reasonable amount of time of the application being submitted.**

a. The parent or legal guardian of an interested pupil may submit an application to an open enrollment school and shall not be charged an application fee. The open enrollment school shall follow its published open enrollment process and shall not violate any state or federal discrimination laws that apply to public school enrollment practices. A school district shall give enrollment preference to and shall reserve capacity for all of the following pupils: (i) resident pupils; (ii) pupils returning to the school from the previous year; and (iii) siblings of pupils already enrolled. If the number of eligible applicants to a particular open enrollment school exceeds that school's maximum published enrollment and after first granting enrollment to those pupils listed in the above-referenced enrollment preferences, that school shall select pupils for available slots through an equitable selection process such as a lottery, except that preference shall be given to the siblings of a pupil already selected through an equitable selection process such as a lottery. Pupils enrolled into an open enrollment school and who are in good standing need not reapply for admission for subsequent years.

b. No school district board of education that adopts an open enrollment policy shall be required to:

(i) make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school;

(ii) establish and offer any particular program in a school if such program is not currently offered in such school; or

(iii) alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance;

c. A school district who adopts an open enrollment policy may deny enrollment to any nonresident pupil for one of the following reasons:

(i) lack of space or capacity within a particular school requested, in which case, priority shall be given to resident pupils applying for admission to such school;

(ii) the school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet the special needs of the pupil or does not offer a particular program requested;

(iii) the pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance;

(iv) a desegregation plan is in effect for the school district, and such denial is necessary in order to maintain compliance with such desegregation plan; or

(v) the pupil has been expelled or is in the process of being expelled.

d. An open enrollment school shall accept credits towards graduation that were awarded to the nonresident pupil by another district and shall graduate a nonresident pupil if that pupil meets the nonresident district's own graduation requirements.

e. For purposes of open enrollment, neither the sending nor the receiving school district shall be obligated to provide transportation services for pupils attending an open enrollment school outside the pupil's resident district. If transportation services are provided, the costs associated with the transportation shall be borne exclusively by the open enrollment school.

f. For the purposes of this chapter, a pupil enrolled in an open enrollment school shall be considered transferred to and enrolled in the school district that is hosting the open enrollment school for purposes of school attendance and accountability. The school district shall include in its net enrollment those nonresident pupils enrolled into the district's open enrollment school in the state's pupil reporting system. The state shall send all federal and state funds associated with that pupil to the school district that has enrolled the pupil into the open enrollment school.

[~~3. The school authorities of a district or city must deduct from the tuition of a nonresident pupil, whose parent or guardian owns property in such district or city and pays a tax thereon for the support of the schools maintained in such district or city, the amount of such tax.~~]

§ 3. This act shall take effect on the first of July next succeeding the date upon which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulations necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.