

# STATE OF NEW YORK

8975

2025-2026 Regular Sessions

## IN ASSEMBLY

August 13, 2025

Introduced by M. of A. CUNNINGHAM -- read once and referred 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 Assem-  
bly, do enact as follows:

1 Section 1. The section heading of section 3202 of the education law is  
2 amended to read as follows:  
3 [~~Public~~] Free public schools [~~free to resident pupils; tuition from~~  
4 ~~nonresident pupils~~].  
5 § 2. Subdivisions 1, 2 and 3 of section 3202 of the education law,  
6 subdivision 1 as amended by section 47 of part PP of chapter 56 of the  
7 laws of 2022, are amended to read as follows:  
8 1. A person over five and under twenty-one years of age who has not  
9 received a high school diploma is entitled to attend the public schools  
10 maintained in the district in which such person resides or to attend an  
11 open enrollment school, as set forth in subdivision two of this section,  
12 without the payment of tuition. Provided further that such person may  
13 continue to attend the public school in such district in the same  
14 manner, if temporarily residing outside the boundaries of the district  
15 when relocation to such temporary residence is a consequence of such  
16 person's parent or person in parental relationship being called to  
17 active military duty, other than training. Notwithstanding any other  
18 provision of law to the contrary, the school district shall not be  
19 required to provide transportation between a temporary residence located  
20 outside of the school district and the school the child attends. A  
21 veteran of any age who shall have served as a member of the armed forces  
22 of the United States and who (a) shall have been discharged therefrom  
23 under conditions other than dishonorable, or (b) has a qualifying condi-  
24 tion, as defined in section one of the veterans' services law, and has  
25 received a discharge other than bad conduct or dishonorable from such

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

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1 service, or (c) is a discharged LGBT veteran, as defined in section one  
2 of the veterans' services law, and has received a discharge other than  
3 bad conduct or dishonorable from such service, may attend any of the  
4 public schools of the state upon conditions prescribed by the board of  
5 education, and such veterans shall be included in the pupil count for  
6 state aid purposes. A nonveteran under twenty-one years of age who has  
7 received a high school diploma shall be permitted to attend classes in  
8 the schools of the district in which such person resides or in a school  
9 of a board of cooperative educational services upon payment of tuition  
10 under such terms and conditions as shall be established in regulations  
11 promulgated by the commissioner; provided, however, that a school  
12 district may waive the payment of tuition for such nonveteran, but in  
13 any case such a nonveteran who has received a high school diploma shall  
14 not be counted for any state aid purposes. Nothing herein contained  
15 shall, however, require a board of education to admit a child who  
16 becomes five years of age after the school year has commenced unless  
17 ~~[his or her]~~ such child's birthday occurs on or before the first of  
18 December.

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

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

1 b. No school district board of education that adopts an open enroll-  
2 ment policy shall be required to:

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

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

8 (iii) alter or waive any established eligibility criteria for partic-  
9 ipation in a particular program, including age requirements, course  
10 prerequisites, and required levels of performance;

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

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

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

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

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

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

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

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

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

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

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