

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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