

CHAPTER 267  
FORMERLY  
HOUSE BILL NO. 337  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE SCHOOL DISTRICT ENROLLMENT CHOICE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §402, Title 14 of the Delaware Code as follows:

§ 402 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(5) "Receiving local education agency" shall mean any public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions, other than the school district of residence, which administers any school or program in which a student seeks to enroll, including any receiving district. Where the local education agency is the school district of residence that includes more than 1 school or more than 1 program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving local education agency for all purposes of this chapter, except for the purposes of § 408 of this title. Notwithstanding § 505 of this title, the term "receiving local education agency" shall include charter schools.

(6) "Working days" shall mean working days as determined by a local education agency's administrative calendar.

Section 2. Amend §403, Title 14 of the Delaware Code as follows:

§ 403 Pupil application; withdrawal.

(a) Any parent of a school age child may apply to enroll that parent's own child in a school or program in a receiving local education agency by submitting a written application, on a standard form provided by the Department of Education, to the Department of Education or to the receiving local education agency and to the district of residence on or after the first Monday in November and on or before the second Wednesday in January for enrollment during the following school year, except that a parent may apply to a receiving local education agency until the first day of the school year for enrollment in a kindergarten program during that school year. The Department of Education shall distribute applications to the appropriate receiving local education agency no later than 10 working days after the application deadlines set forth in this subsection. Receiving districts may require the submission of information beyond that contained in the standard form provided that it requires the submission of the same information by the parents of children residing in the attendance zone for the school. Notwithstanding the requirements of this subsection, charter schools, vocational-technical school districts, and magnet schools may accept applications submitted after the second Wednesday in January to fill remaining availability.

(b) If a parent of a school age child fails to file an application by the deadline established in subsection (a) of this section, and good cause exists for the failure to meet the deadline, the receiving local education agency and the district of residence shall accept and consider the application in the same manner as if the deadline had been met.

(c) The parent of a school age child may withdraw the application at any time prior to action on the application by the board of the receiving local education agency by giving written notice to the boards of the receiving local education agency and the district of residence.

(d) The parent shall indicate on the standard form the schools and programs to which the parent is applying on behalf of his or her child, as well as the parent's order of preference of the schools or programs.

Section 3. Amend §404, Title 14 of the Delaware Code as follows:

§ 404 Receiving district and local education agency procedures.

(a) Within 10 working days after an application deadline, the receiving district shall transmit a notice to the district of residence that it has received the application.

(b) The board of the receiving local education agency shall take action no later than the last day of February of the school year preceding enrollment to approve or disapprove an application for admission to a program in grades 1 through 12, and no later than June 15 of the school year preceding enrollment to approve or disapprove an application for admission to a kindergarten program. Charter schools, vocational-technical school districts, and magnet schools may act on applications accepted in accordance with the provisions of § 403(a) of this title to fill remaining availability.

(c) With respect to any application filed in accordance with the provisions of § 403(b) of this title, the board of the receiving local education agency shall take action to approve or disapprove the application no later than 45 days after receipt thereof, unless the application is received prior to a lottery conducted as outlined in a local education agency's enrollment policy in the case of over-enrollment.

(d) The board of the receiving local education agency shall transmit a notice of the board's action to the parent of the child, and to the board of the district of residence within 5 working days after board action.

(e) The parent who applied for the child shall notify the board of the receiving local education agency in writing no later than the third Friday in March, whether an offer is accepted or rejected.

(f) No later than November 30 of each year, the board of each receiving district shall transmit to the Department of Education notice of the capacity of each school in the receiving district for the following academic year and the projected enrollment for the following academic year. The capacity and projected enrollment figures may be revised until January 30. For the purposes of this subsection, "capacity" shall have the same meaning as set forth in § 405(c) of this title, and "projected enrollment" shall mean the total number of returning students and new attendance zone students the receiving district anticipates will enroll for the following academic year.

(g) No later than October 31 of each year, each receiving district shall hold at least 1 public information session about choice opportunities available in schools and programs in that district for the coming academic year.

Section 4. Amend §405, Title 14 of the Delaware Code as follows:

§ 405 Criteria for approval or disapproval.

(a) Each receiving local education agency shall adopt and make available a policy regarding the order in which applications for enrollment pursuant to this chapter shall be considered and the criteria by which such applications shall be evaluated.

(b) Prior to the applicable application deadline established in § 403(a) of this title, each receiving district shall adopt and make available a policy establishing criteria for acceptance or rejection of applications and setting priorities for acceptances consistent with this section. Such criteria shall be reasonably related to the nature of the program or school for which the application is submitted and may not differ from the criteria used for acceptance or rejection of applications submitted by parents of children residing in the attendance zone of the school, if applicable, except that a district shall give priority to the following categories of students in the order listed:

(1) First, to returning students who continue to meet the requirements for the program or school, including students graduating from 1 school to another within a single program;

(2) Second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of the student's parent within the designated feeder pattern, if any, for the school; and

(3) Third, to the siblings of students already enrolled in the school who will be returning to the school for the following academic year, provided that any siblings seeking priority under this paragraph meet the requirements for the program or school. Priority may be given to siblings of students who live in the district over siblings of students who do not live in the district.

In addition to the above, a receiving district may next give priority to students who have designated the program or school as a first, second, or third choice; to students who live within the district; and to

children of school employees; as long as they otherwise meet the criteria of the program or school. After a receiving district has admitted all qualifying students consistent with the criteria in this subsection, the receiving district shall use a lottery process to admit additional students and generate a ranked waiting list. The Department may verify the randomness of the lottery process.

(c) Each receiving local education agency shall accept applications, in a manner consistent with the policy adopted pursuant to this subsection, until there is a lack of capacity in each school and program. Students who meet the receiving local education agency's criteria for acceptance in the policy but who are not selected due to a lack of capacity in the school or program shall be placed on a ranked waiting list maintained by the receiving local education agency until the first day of the receiving local education agency's school year for which they applied.

(d) Consistent with subsection (b) of this section, a receiving local education agency may disapprove an application because of lack of capacity in a particular program or school. For purposes of this section, "capacity" means the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical resources, and class size for each grade level. For the purposes of this section, "lack of capacity" means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity.

(e) A district which is subject to a court-ordered desegregation plan may approve and disapprove applications in accordance with § 406(a) of this title.

Section 5. This Act shall take effect on August 1, 2014.

Approved June 25, 2014