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5117 INTERDISTRICT PUBLIC SCHOOL CHOICE

New Jersey's Interdistrict Public School Choice Program Act provides interested New Jersey school districts an opportunity to apply to the New Jersey Department of Education to become a public school choice school district that can make available classroom seats within the school district for the Board to accept non-resident students. A choice district may enroll students across district lines in designated schools of the choice district.

A proposed choice school district shall submit an application to the Commissioner of Education no later than April 30 in the year prior to the school year in which the choice program will be implemented.

The Commissioner shall notify a choice district of the approval or disapproval of its application no later than July 30, and the reasons for disapproval shall be included in the notice. The Commissioner shall notify the New Jersey State Board of Education of the approval of a choice district application and the State Board shall include a public notice of the approval on the next agenda for its public monthly meeting.

The Commissioner may take appropriate action, consistent with State and Federal law, to provide that student population diversity in all districts participating in a choice district program is maintained in accordance with the provisions of N.J.S.A. 18A:36B-17.b.

The Commissioner shall evaluate an application submitted by a proposed choice district in accordance with the provisions of N.J.S.A. 18A:36B-18.

The parent or guardian of a student shall notify the sending district of the student's intention to participate in the choice program and shall submit an application to the choice district, indicating the school the student wishes to attend, no later than the date specified by the Commissioner.

A choice district may evaluate a prospective student on the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any basis prohibited by State or Federal law.

A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to Chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.



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A student whose application is rejected by a choice district shall be provided with a reason for the rejection in the letter of notice. The appeal of a rejection notice may be made to the Commissioner. Once a student is enrolled in a designated school, the student shall not be required to reapply each school year for enrollment in any designated school of the choice district and shall continue to be permitted to be enrolled until graduation. A student shall be permitted to transfer back to a school of the sending district or may apply to a different choice district during the next application period.

The Board of Education of a sending district may adopt a resolution to restrict enrollment of its students in a choice district to a maximum of ten percent of the number of students per grade level per year and fifteen percent of the total number of students enrolled in the sending district. This resolution shall be subject to approval by the Commissioner upon a determination that the resolution is in the best interest of the district's students and that it will not adversely affect the district's programs, services, operations, or fiscal conditions, and that the resolution will not adversely affect or limit the diversity of the remainder of the student population in the district who do not participate in the choice program.

Enrollment restriction percentages adopted by the resolution shall not be compounded from year to year and shall be based upon the enrollment counts for the year preceding the sending district's initial year of participation in the choice program, except that in any year of the program in which there is an increase in enrollment, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment at any time during the duration of the program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice program in the initial year of the district's participation in the program, provided that a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.

A choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.A. 18A:38-3 while participating in the Interdistrict Public School Choice Program. Any student enrolled on a tuition basis prior to the establishment of the choice program shall be entitled to remain enrolled in the choice district as a choice student.

Transportation, or aid in-lieu-of transportation, shall be provided to an elementary school student who lives more than two miles from the choice district school of attendance and to a secondary school student who lives more than two and one-half miles from the choice district school of attendance, provided the choice district school is not more than twenty miles from the residence of the student.

Transportation, or aid in-lieu-of transportation, shall be the responsibility of the sending district. The choice district and the sending district may enter into a shared service agreement in



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accordance with the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of P.L. 2007, c.63 (C.40A:65-1 through C.40A:65-35). Notwithstanding the provisions of section 20 of P.L. 2007, c.260 (C.18A:7F-62) to the contrary, the sending district shall receive State aid for transportation calculated pursuant to section 15 of P.L. 2007, c.260 (C.18A:7F-57) for a student transported or receiving aid-in-lieu-of transportation pursuant to N.J.S.A. 18A:36B-22.

A choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school. The information about participating programs and schools shall be posted on the choice district's website.

The Commissioner shall annually report to the State Board of Education, the Legislature, and the Joint Committee on the Public Schools on the effectiveness of the Interdistrict Public School Choice Program. The Commissioner's annual report shall be posted on the New Jersey Department of Education's website and on the website of each choice district.

N.J.S.A. 18A:36B-14 through 18A:36B-24
N.J.A.C. 6A:12-1.1 et seq.

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A. Definitions

1. "Choice district" means a public school district established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes that is authorized under the Interdistrict Public School Choice Program to open a school or schools to students from a sending district.
2. "Choice program" means the Interdistrict Public School Choice Program authorized in N.J.S.A. 18A:36B-14 et seq.
3. "Choice student" or "choice pupil" means an out-of-district student who is accepted into a choice district.
4. "Commissioner" means the New Jersey Commissioner of Education.
5. "Department" means New Jersey Department of Education.
6. "Non-public school student" or "non-public school pupil" means any student who is obtaining academic instruction outside of a public school at the time of his or her application to the choice district.
7. "Sending district" means the choice student's district of residence, charter school, or any school the student is required by law to attend.

B. Eligibility Criteria for Boards of Education

1. A Board of Education is eligible to participate in the choice program if it has classroom space available, completes an application form provided by the Department pursuant to N.J.A.C. 6A:12-1.1 et seq., and receives approval from the Commissioner to participate.

C. Eligibility Criteria for Students

1. To be eligible to participate in the program, a student shall be enrolled at the time of application in grades pre-school through twelve in a public school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in a choice district including time spent at any school that a student in a particular district of residence is required by law to attend.
 - a. If a student attends public school in his or her district of residence and is counted in that district's October Application for State School Aid and the student's family moves during the school year and the student attends



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public school in his or her new district of residence for the remainder of the school year, the student shall have satisfied the one-year eligibility requirement for application to the school choice program.

- b. The one-year requirement shall not apply to a student applying to enroll in Kindergarten in a choice district if that student already has a sibling enrolled in and attending the choice district and if the district of residence of that student does not offer a public pre-school program.

2. A public school student who does not meet the eligibility requirements found in 1. above or a non-public school student may apply to enroll in a choice school district pursuant to N.J.S.A. 18A:36B-20.a. If a choice district allows for non-public school student enrollment, it may not make distinctions between such students on the basis of where they receive this academic instruction.

3. Students residing out of New Jersey may not participate in the choice program.

D. Choice Program Application Procedures

1. An eligible applicant for a choice district shall complete an Interdistrict Public School Choice Program application, which shall be made available by the New Jersey Department of Education and which shall be submitted pursuant to N.J.S.A. 18A:36B-17.

E. Sending District Procedures

1. A sending district may not restrict the participation of its students in the choice program where the district's students provide written notice of intent to apply to a specialized educational program that is offered by the choice district and not offered in the sending district.
2. The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.
 - a. Students from the sending district who are already enrolled in and attending a school choice program shall not be included in the newly calculated number of students eligible to attend a school choice district.
 - b. When the multiplication of the grade level enrollment by the percentage established in the sending district's resolution adopted pursuant to N.J.S.A. 18A:36B-21.a(1) results in a number with a decimal, the number will be rounded to the next whole number.



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- c. The sending district's resolution restricting its students' participation may not be applied to the final grade level available in the sending district.
 3. Where a Board of Education of a sending district has adopted a resolution pursuant to N.J.S.A. 18A:36B-21.a(1) to impose a limit on the number of its students participating in the choice program, and when student notices of intention to participate in the choice program exceed that limit, the sending district shall:
 - a. Hold a public lottery to determine the selection of students for participation in the choice program;
 - b. Notify the parent or guardian of every student who has submitted notice of intent to participate in the choice program of the date and time of the lottery;
 - c. Assign a number to each student participating in the lottery and notify the parent or guardian of the number assigned to their child(ren); and
 - d. Develop a waiting list based on the lottery.
 4. Where a Board of Education of a sending district has adopted a resolution to impose a limit on the number of its students participating in the choice program, and when student notices of intention to participate in the choice program exceed that limit, before conducting the lottery, the sending district may give preference to siblings of its resident students already enrolled in and attending the choice district.
 - a. In the event the sending district elects to give preference to siblings of its resident students already enrolled in and attending the choice district and there are more sibling applicants than there are available spaces, the sending district shall conduct a lottery first for the siblings only to determine the selection of students for participation and for placement on the waiting list.
 - b. In the event the sending district elects to give preference to siblings of its resident students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of resident students already enrolled in and attending the choice district, the sending district shall conduct a lottery for the remaining applicants to assign them a place on the waiting list.
 5. Prior to any lottery that may be held, the sending district shall verify the student is enrolled in the sending district and was reported on the Application for State School Aid in October of the current school year.



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6. Prior to any lottery that may be held, the sending district shall notify the applicants of the date and time of such lottery.
 7. Any lottery held must be held prior to the deadline set by the Commissioner for written notification to the parent that the student is eligible to participate in the school choice program.
- F. Choice District Procedures for Students Meeting the Eligibility Requirements
1. Choice districts shall admit choice students on a space available basis.
 - a. A Board of Education shall not prevent students from participating in the school choice program.
 - b. A choice district may not impose admission criteria upon prospective choice program students other than those permitted by statute.
 - c. A choice district may give preference for enrollment to siblings of enrolled students.
 - d. When a choice district receives more applications than there are spaces available, the choice district shall hold a public lottery to determine the selection of students for participation in the choice program.
 - (1) The choice district shall develop a waiting list based on the lottery.
 - (2) The choice district shall notify the parent or guardian of every student who has submitted an application to participate in the choice program of the date and time of the lottery.
 - (3) The choice district shall assign a number to each student participating in the lottery and shall notify the parent or guardian of the number assigned to their child(ren).
 - (4) Before conducting the lottery, the choice district may give preference to siblings of students already enrolled in and attending the choice district.
 - (a) In the event the choice district elects to give preference to siblings of students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of students already enrolled in and attending the choice district, the choice district shall conduct a lottery first for the siblings only to determine the selection of students for participation and placement on the waiting list.



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- (b) In the event that choice district elects to give preference to siblings of students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of students already enrolled in and attending the choice district, the choice district shall conduct a lottery first for the remaining applicants to assign them a place on the waiting list.

G. Choice Student Application Procedures

1. The Commissioner shall establish a student application timeline each year no later than September 1.
2. Within five business days of the due date set by the Commissioner pursuant to the timeline in 1. above, the choice district shall provide to the Department of Education electronic notification of the number of students who enroll.
3. The choice district shall provide written notification of receipt of each notice of enrollment to each sending district's Board of Education within ten days of the due date for receipt of such notice of enrollment from a choice student resident in that sending district.
4. A choice student applicant may seek from the Commissioner by a showing of good cause a waiver of the student application deadlines established in the timeline in 1. above.

H. Choice District Procedures for Students not Meeting Eligibility Requirements

1. If seats remain available in a choice district after exhausting the list of applicants who meet the requirements of N.J.A.C. 6A:12-2.2(a), including those on any waiting list that has been established through the application process, then the choice district may elect to fill the seats with public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and with non-public school students.
2. Choice districts may accept applications from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students up until the deadline set by the Commissioner.
3. Upon the receipt of an application from a public school student who does not meet the requirements of N.J.A.C. 6A:12-2.2(a) or a non-public school student, the choice district shall send a letter to the parent of the student including the following information:
 - a. Whether the choice district will consider public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students for admission to the district. If the choice district has not yet



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decided, it shall inform the parents of when the decision is expected to be made;

- b. That public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will not be considered for admission until the choice district has conducted the application cycle and has exhausted its waiting list of students who meet the requirements of N.J.A.C. 6A:12-2.2(a) for the grade level to which they have applied;
- c. That the choice district may need to conduct a lottery to select the students to be offered admission to the choice district depending on the seats available and the number of applications received from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students; and
- d. That the parents of those public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will be fully informed of the lottery process in the event that a lottery is required, the date it will be held, and what number has been assigned to the applicant.

I. Choice Student Enrollment

1. Once enrolled in a choice district, the choice student may remain enrolled and is not required to submit annual or periodic applications.
2. Upon acceptance of a choice student, the choice district is obligated to retain the choice student until graduation or until the choice student voluntarily withdraws.
3. In the event of termination of the choice program in that district or Statewide, any student enrolled in that choice district shall be entitled to remain enrolled in that district until graduation.
4. In the event a public school student who is currently a choice student attending school in a choice district moves to another district, that public student is eligible to remain in the choice district as a choice student without application.
5. A resident student of a choice district who moves during the school year may be allowed to remain in the choice district until the end of the school year. The student may apply to the choice program as a funded student for the next school year. If the student moves after the application deadline or otherwise is unable to receive funding as a choice student in the school district for the subsequent school year, the choice school district may enroll the student as an unfunded choice student in that year, and automatically convert the student's enrollment to a funded choice student if he or she remains in the choice program.



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- J. Appeals from Commissioner of Education Determinations
1. An appeal of any determination by the Commissioner not to grant an application for participation in the choice program may be filed by an eligible choice district applicant according to N.J.A.C. 6A:4.
- K. Appeals from Denial of Enrollment
1. An appeal of any denial of a choice student applicant for enrollment in a choice district may be filed by the parent or legal guardian with the Commissioner in accordance with N.J.A.C. 6A:3.
- L. General Provisions
1. Choice districts shall accept all credits toward graduation that were awarded by another Board of Education for each choice student it accepts.
 - a. Choice districts shall award a diploma to a choice student participating in the program if that student meets the graduation requirements of the choice district and of the State of New Jersey.
 2. A choice district shall establish and maintain a parent information center.
 - a. The center shall collect and disseminate information about participating programs and schools, and shall assist parents and legal guardians in submitting applications for enrollment of students in an appropriate program and school.
 - b. The information about participating programs and schools shall be posted on the choice district's website.
 3. A choice district shall file reports with the Department at the end of each application cycle. A choice district's reports shall include demographic and student participation information, fiscal and programmatic information, and updates on the number of available openings.
- M. Student Transportation
1. Each sending district shall have the responsibility for the transportation of enrolled choice students who are eligible for transportation services both to and from the choice school in which that student is accepted. Each sending district shall provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-4.
- N. General Provisions



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1. Choice students participating in this program shall qualify for State aid pursuant to N.J.S.A. 18A:36B-14 – Interdistrict Public School Choice Program Act. The sending district will receive transportation aid pursuant to N.J.A.C. 6A:12-8.1.
2. The sending district shall maintain fiscal responsibility for any choice student enrolled in or determined to require a private day or residential school, except that the choice district will be required to contribute any State aid received for such a student and the sending district will be responsible for the balance.