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**S. 315**

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Summary: Open Enrollment

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**VERSIONS OF THIS BILL**

[12/07/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/315_20221207.docx)

A bill

to amend the South Carolina Code of Laws by adding Section 59-63-25 so as to provide an open enrollment option in public schools; by amending Section 59-63-30, Section 59-63-32(B), (C), and (E), and Section 59-63-480, to make conforming changes to implement the open enrollment option.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 63, Title 59 of the S.C. Code is amended by adding:

 Section 59-63-25. (A) Beginning with the 2023-2024 School Year, each local board of trustees shall follow the policy and procedures established pursuant to this section for extending open enrollment opportunities that allow parents to apply for their child to enroll in any particular program or school.

 (B) Using a template developed and provided by the Department of Education and approved by the State Board of Education, each local board of trustees shall develop and adopt an open enrollment policy based on its evaluation of available data reflecting student, school, district, and community needs. The board shall ensure that the policy developed and data used to develop the policy and related procedures are posted prominently on the district website, and the board shall provide the department with its policy in a web posting format.

 (1) The open enrollment policy and process must:

 (a) adhere to federal desegregation and other educational requirements;

 (b) identify and describe the application requirements, timeline, and communication plan;

 (c) allow parents to declare school preferences, including placement of siblings within the same school;

 (d) describe lottery and wait list policies and an appeal process for adverse decisions;

 (e) include the policies adopted by the board regarding capacity standards, standards of approval and denial, priorities of acceptance for enrollment, and transportation;

 (f) include a disclosure of:

 (i) whether the district will charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal or state funding;

 (ii) itemized fees, including the amount of each fee, charged by the district to nonresident students to cover the costs associated with their enrollment that are not covered by federal and state funding; and

 (iii) whether the district has a mitigation or fee waiver process, and a description of such process for any fees charged under this section; and

 (g) include a component addressing public awareness of open enrollment opportunities, accessing data on the open enrollment capacity of a school, the district application process and timeline, and written procedures for notification of acceptance or denial of an application.

 (2) In implementing the provisions of this section, a school district may, but is not required to:

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

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

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

 (d) expand the capacity of a program or school for the purpose of accommodating increased demand for open enrollment opportunities;

 (e) provide transportation to a student accepted pursuant to this section who is attending a school outside of the attendance zone of their residence; however, nothing in this section may be construed to prohibit the district from providing bus transportation on an approved route, from requesting state or federal funds for this purpose, or from entering into an agreement with another district to provide transportation; or

 (f) have more than one open enrollment application deadline for intra-district applications, or for inter-district applications. Applications shall be accepted no earlier than November 1 in a calendar year with a cut off for applications no later than January 31 of the subsequent calendar year; however, a district may establish one or more subsequent deadlines as may be reasonable and necessary and in conformance with this section.

 (3) In complying with this section, a school district is not required to transfer local funds for a student enrolling in a nonresident school district.

 (4) The State Board of Education through the State Superintendent of Education shall establish a standard inter-district open enrollment timeline for parents and districts to follow.

 (C)(1) In implementing the provisions of this section, a student who meets one or more of the following criteria must not be displaced by a student transferring from outside the attendance zone:

 (a) currently resides in the attendance zone of a school;

 (b) qualifies to attend a school within the attendance zone pursuant to Section 59-63-30(c), 59-63-31, 59-63-425, or 59-63-550; or

 (c) is a returning student who continues to meet the requirements of the program or school.

 (2) In the assignment of students for enrollment opportunities remaining after students assigned pursuant to subsection (1), enrollment priority shall be given as follows, unless and until a district has a policy in place in the school year prior to implementation of this section that is revised to conform pursuant to subsection (G):

 (a) first, to students who meet the requirements of the program or school and who seek to attend the designated school in the district’s feeder pattern;

 (b) second, to the siblings of students residing in the same household already enrolled in the school, provided that any siblings seeking priority under this section meet the requirements of the program or school; and

 (c) third, to students whose parent or legal guardian is assigned to the school as his primary place of employment, with any remaining spaces being filled pursuant to a lottery procedure:

 (i) for intra-district open enrollment applicants, then

 (ii) if any remaining, for inter-district open enrollment applicants.

 (3) The policies must not have the purpose or effect of causing racial segregation in a school or the school district.

 (4) Denial of permission to enroll in a particular program or school may only be provided in the following situations:

 (a) there is a documented lack of capacity in the school, level, or program requested, in which case priority must be given to a student who currently resides in the attendance zone of a school;

 (b) the school requested does not offer a particular program requested;

 (c) 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;

 (d) a desegregation plan is in effect for the school district and the denial is necessary to enable compliance with the desegregation plan;

 (e) the student is subject to provisions in Section 59‑63‑210 or Section 59‑63‑217; or

 (f) any combination of subitems (a) through (e).

 (5) A school or district receiving an application request for enrollment from a student pursuant to this section and district policy shall respond with a written decision accepting or denying the request within thirty days after the application deadline as published.

 (a) If a request is denied, the written decision must cite the specific reasons for the denial and include notice of the opportunity for the parent to appeal the denial pursuant to the district grievance policy and timeline developed and adopted pursuant to this chapter and in accordance with state statute.

 (b) If a school or district fails to respond with its written decision within thirty days after the application deadline is published or fails to respond to a request for a subsequent appeal in a timely manner, the request shall be considered accepted and the student may enroll in the program or school, subject to other applicable laws regarding the enrollment of students in public schools.

 (D) An open enrollment policy adopted by a local board of trustees shall:

 (1) clearly distinguish intra-district policies from inter-district policies;

 (2) be reviewed and updated periodically by the board, using the template provided by the department; and

 (3) be submitted initially, and if amended, to the Department of Education.

 (E) The department shall include all district open enrollment policies on its School Choice website portal and shall annually by October 1 provide an update to the State Board of Education, the Senate Education Committee Chair, and the House Education and Public Works Chair on the status, progress, innovations, evolving best practices, and challenges of implementing the program, including identifying districts which have not submitted a policy.

 (F) A school district in the process of consolidation may apply to the State Board of Education for a waiver from compliance with some or all of the requirements of this chapter until the consolidation is completed. Thereafter, the provisions of this section must apply to the district pursuant to the manner and timeline specified in the waiver request.

 (G) Except as provided herein, provisions in this section apply to a district that has a documented open enrollment procedure in place during the school year prior to implementation of this chapter. Using a template provided by the department, such districts shall develop and submit a plan for conforming to provisions for State Board of Education approval, and annual updates on status of meeting the agreed upon timeline.

SECTION 2. Section 59-63-30 of the S.C. Code is amended to read:

 Section 59-63-30. Children A pupil within the ages prescribed by Section 59-63-20 shall beis entitled to attend the public schools of any school district, without charge, only if qualified under the following provisions of this section the pupil has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59‑19‑90, has not been guilty of an infraction of the rules of conduct promulgated by the trustees of the school district pursuant to Section 59‑19‑90, and:

 (a)(1) Such child resides with its his parent or legal guardian at the parent’s or legal guardian’s primary residence in the school district; or

 (b) The parent or legal guardian, with whom the child resides, is a resident of such school district; or

 (c)(2) on or before June 30, 2024The child owns owned real estate in the district having an assessed value of three hundred dollars or more, and attended a school in that district; and

 (d) The child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59-19-90; and

 (e) The child has not been guilty of infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59-19-90.

SECTION 3. Section 59-63-32(B) of the S.C. Code is amended to read:

 (B) The school district also must require an adult to complete and sign an affidavit:

 (1) confirming the qualifications set out in Section 59-63-31(A)(1)(c) establishing residency of the child in the school district;

 (2) attesting that the child's claim of residency in the district is not primarily related to attendance or achieving an unreasonable advantage in enrollment priority at a particular school within the district; and

 (3) accepting responsibility for educational decisions for the child.

SECTION 4. Section 59-63-32(C) of the S.C. Code is amended to read:

 (C) Upon receipt of the affidavit provided for in subsection (B), the child must be admitted to an appropriate school pending the results of any further procedures for determining eligibility and priority for attendance within the school district.

SECTION 5. Section 59-63-32(E) of the S.C. Code is amended to read:

 (E) If it is found that a person wilfully and knowingly has provided false information in the affidavit provided for in subsection (B) to enroll a child in a school or district for which the child is not eligible or eligible for enrollment priority, the maker of the false affidavit is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed two hundred dollars or imprisoned for not more than thirty days and also must be required to pay to the school district an amount equal to the cost to the district of educating the child during the period of enrollment. Repayment does not include funds paid by the State.

SECTION 6. Section 59-63-480 of the S.C. Code is amended to read:

 Section 59-63-480. If school children a pupil in one county reside resides closer to schools a school in a school district located in an adjacent county, they then he may attend such schools upon that school by applying for enrollment through the applicable school district’s open enrollment procedures and policies. Alternatively, the school authorities of the county of their residence arranging district board of trustees of the school in which the pupil resides may arrange with the school officials district board of trustees of the school district in the adjacent county for such admission to the school and upon payment of appropriate charges as herein authorized as provided for in this section. The school board of trustees in the school district in which the pupils reside pupil resides shall make written application for the pupil’s admission through its county board of education to the school board of trustees of the district in which the school is located for the admission of such children., The written application must include the pupil’s age, giving full information as to ages, residence, and school attainment., Upon receipt of the pupil’s application, the school board of trustees of the receiving school district shall calculate the monthly per pupil cost not covered by state funds. Upon proper arrangement being made for the monthly payment of the per pupil cost not covered by state funds, the pupil shall be admitted to the school in the adjacent county. and the The school board of trustees in the receiving school district, agreeing to accept such pupils the pupil, shall give a written statement of agreement to the school district board of trustees in the school district in which the pupil resides. Upon receipt of such application the board of trustees of the school and its county board of education shall determine the monthly per pupil cost of all overhead expenses of the school, which will include all expenses of the school not paid by the State. Upon proper arrangement being made for the payment monthly of such overhead per pupil cost for each such child the same shall be admitted to the schools of the adjacent county.

SECTION 7. Section 59-63-500 of the S.C. Code is repealed.

SECTION 8. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect upon approval by the Governor.

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