

CHAPTER 12

INTERDISTRICT PUBLIC SCHOOL CHOICE

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:12-1.1 Purpose

The purpose of this chapter is to establish the rules for an interdistrict public school choice program (choice program) in the Department of Education (Department) as provided for in N.J.S.A. 18A:7F-3. The choice program is necessary to provide greater choice to parents and students in select-

ing a school which best meets the needs of the student and thus improves educational opportunities for New Jersey citizens. The choice program has the potential to improve the degree to which the education system is responsive to parents and students. It can also improve education and enhance efficiency by allowing a redistribution of students where some districts are overcrowded and others are under-enrolled. Finally, it can improve quality by creating a healthy competition among school districts.

6A:12-1.2 Scope

(a) Any school district in the State will be eligible to become a choice district whereby students outside of the district attend an educational program in the choice district free of charge. However, for the first year following the enactment of this chapter, there shall be in operation no more than 10 choice districts Statewide nor more than one per county; for the second year, no more than 15 choice districts Statewide and no more than one per county; and for the third, fourth and fifth years, no more than 21 choice districts Statewide and no more than one per county.

(b) District boards of education may choose to participate in the choice program by receiving choice students pursuant to this chapter. District boards of education shall not prevent or discourage students from participating in the choice program.

(c) District boards of education may not maintain at the same time both a tuition program pursuant to N.J.S.A. 18A:38-3 and a choice program.

(d) District boards of education currently in a sending/receiving relationship are eligible to participate in the choice program unless otherwise legally prohibited.

(e) Choice districts shall admit choice students on a space available basis.

1. A choice district may limit admissions to a particular grade level or to areas of concentration of the school, such as mathematics, science, or the arts.

2. A choice district may establish reasonable criteria to evaluate prospective choice students, including the student's interest in the program offered by the choice district, which shall be outlined in the application for choice program participation.

3. Choice districts may give preference for enrollment to siblings of enrolled students.

4. Any student enrolled on a tuition basis in a district prior to its approval as a choice district shall be entitled to remain in that choice district as a choice student.

(f) No choice student shall be discriminated against on the basis of intellectual or athletic ability, measures of

achievement or aptitude, status as a student with disabilities, proficiency in the English language, or any other basis prohibited by State or Federal law.

(g) 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.

(h) Students residing out of State may not participate in the choice program.

(i) To participate in the choice program for the initial year of implementation, the following timelines must be met:

1. Within seven weeks of Department dissemination of the choice program application, an eligible district board of education shall submit a completed application to the Department pursuant to N.J.A.C. 6A:12-3.1.

2. Within five weeks of the announcement of approved choice districts, the student's parent or legal guardian shall submit a written notice to the sending district of the student's intention to participate in the choice program.

3. Within two weeks of the sending district's receipt of the student's notice to participate in the choice program, the sending district shall provide written notification to the student's parent or legal guardian that the student may participate in the choice program or that the student may not participate in the choice program due to the outcome of the lottery pursuant to N.J.A.C. 6A:12-3.3(b)3.

4. The student's parent or legal guardian shall submit an application to the choice district pursuant to N.J.A.C. 6A:12-3.3 within one week of the student's receipt of written notification from the sending district that the student may participate in the choice program.

5. Within two weeks of submission of the student application, the choice district shall provide written notification to the parent or legal guardian and the sending district whether the application has been accepted or rejected pursuant to N.J.A.C. 6A:12-3.3(d) and (e).

6. Within one week of receipt of the choice district's notice of acceptance, the student's parent or legal guardian shall provide written notification to the choice district and the sending district whether the student intends to enroll in the choice district.

6A:12-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Annual maximum statutorily established amount" means the amount established for transportation of non-public school students in accordance with N.J.S.A. 18A:39-1.

"Choice district" means a district board of education which chooses to participate in the choice program by receiving choice students and applies for and receives Commissioner approval of the choice program application.

"Choice program" means the Interdistrict Public School Choice Program authorized in N.J.S.A. 18A:7F-3.

"Choice student" means a student who applies for acceptance into a choice district.

"Sending district" means the student's district of residence.

SUBCHAPTER 2. CHOICE PROGRAM ELIGIBILITY CRITERIA

6A:12-2.1 Eligibility criteria for district boards of education

A district board of education of a school district established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes is eligible to participate in the choice program if it has classroom space available, completes an application form provided by the Department pursuant to this chapter, and receives approval to participate.

6A:12-2.2 Eligibility criteria for students

To be eligible to participate in the program, a student shall be enrolled at the time of application in grades K through nine in a school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district.

SUBCHAPTER 3. APPLICATION PROCEDURES

6A:12-3.1 Choice program application procedures

(a) An eligible district board of education which chooses to participate in the choice program shall submit a completed application on a form provided by the Department no later than April 30 in the year prior to implementation of the program which shall include, but not be limited to, the following information:

1. Identification of the number of available openings to choice students by program, grade level and school building;

2. Identification of those districts likely to participate as sending districts in the choice program;

3. A description of the student selection process which includes at least the following information:

i. A mechanism to ensure that choice students do not attend the choice district for extracurricular or social reasons;

ii. A mechanism to ensure that no choice student's learning ability is inhibited due to an excessive amount of time in transit; and

iii. A mechanism to ensure that choice students accepted are selected through a random unbiased process;

4. Establishment of a regionwide public information program and a parent assistance center as set forth in N.J.A.C. 6A:12-4.1(b) and (d);

5. A description of the choice district, its schools, its programs, its policies and procedures; and

6. An analysis of the potential impact of the program on student population diversity in the likely participating districts and a plan for maintaining diversity in the likely participating districts, which plan shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan.

(b) The Commissioner shall notify applicants regarding approval or denial of program participation on or about July 30 in accordance with (a) above. The notification to applicants who are not approved shall include reasons for the denial.

(c) The Commissioner shall annually prepare a list of approved choice districts and make the list available to the public.

(d) 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. Student population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The action may include, but need not be limited to:

1. Directing a choice district to take appropriate steps to successfully implement the district's plan for maintaining student population diversity;

2. Restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and

3. Revoking the approval of the choice district.

6A:12-3.2 Criteria to guide Commissioner's approval of choice program applications

(a) In the evaluation of the application, the Commissioner shall take into account the following in selecting approved choice districts:

1. The type and quality of programs offered for choice student(s) participation;

2. The adequacy of the student selection mechanisms established in the application;

3. The status of the applicant district(s) in Statewide monitoring and assessment;

4. The applicant's previous experience with choice programs;

5. Budgetary ramifications for the applicant district(s);

6. The fiscal ramifications of approval on any district(s) currently in a sending/receiving relationship;

7. The impact on student population diversity; and

8. The degree to which the program will promote educational quality.

6A:12-3.3 Choice student application procedures

(a) The student's parent or legal guardian shall provide a written notice to the sending district of the student's intention to participate in the choice program by September 30 for initial enrollment beginning the following school year in a choice district.

(b) Upon adoption of a resolution, the district board of education of a sending district may limit the number of its students participating in the choice program.

1. The district board of education of a sending district may limit the total number of its students participating in the choice program to:

i. A maximum of seven percent or greater of the total number of students enrolled in the sending district; and/or

ii. A maximum of two percent or greater of the number of students per grade per year in the sending district limited by any resolution adopted pursuant to (b)1i above.

2. If the district board of education of a sending district determines to impose a maximum limit on enrollment decreases, the calculation of either the seven percent or the two percent enrollment limitations shall be based on the sending district's enrollment count as reported on the Application for State School Aid in October of the year in which notification of student participation is due pursuant to (b)4 below.

3. If the district board of education of a sending district adopts a resolution to impose a maximum limit on the number of its students participating in the choice

program and the student notices of intention to participate in the choice program exceed that maximum limit, the sending district shall hold a lottery to determine the selection of students for participation in the choice program.

4. The sending district board of education shall provide written notification to the student's parent or legal guardian by November 15 that the student may participate in the choice program or that the student may not participate in the choice program due to the outcome of the lottery.

(c) The student's parent or legal guardian must submit an application, on a form provided by the Department, to the choice district by November 30 for initial enrollment beginning the following school year. The parent or legal guardian shall identify the student, the student's district of residence, the program, grade level and school building of the choice district for which the student is applying.

1. The student's parent or legal guardian must also submit with the application the written notification from the sending district that the student may participate in the choice program pursuant to N.J.A.C. 6A:12-3.3(b)4.

(d) The choice district shall notify the parent or legal guardian in writing by January 5 whether the application has been accepted or rejected. If an application is rejected, the choice district shall state the reason for rejection in the notification.

(e) The choice district shall provide written notification to the sending district's board of education by January 5 which shall provide the name and address of each choice student who was accepted.

(f) The parent or legal guardian shall provide written notification to the choice district and the sending district's board of education by January 15 whether the choice student intends to enroll in the choice district.

1. Notice of intent to enroll in the choice district obligates the choice student to attend the choice district during the following school year, unless the sending district and the choice district agree in writing to allow the choice student to transfer back to the sending district.

2. Notice of intent to enroll is not binding if the choice student's parents or legal guardians change residence to another district.

(g) Once enrolled in a choice district, the choice student may remain enrolled and is not required to submit annual or periodic applications. 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 limited by (f)1 above. In the event of termination of the choice program in that district or Statewide, any student enrolled in a choice district shall be entitled to remain enrolled in that district until graduation.

(h) To return to the sending district or to transfer to a different choice district, the parent or legal guardian of the choice student shall provide notice to the sending district or apply to a different choice district by November 30 for enrollment beginning the following school year.

6A:12-3.4 Appeals

(a) 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 applicant choice district with the State Board of Education according to N.J.A.C. 6:2.

1. Within 30 days of receipt of the notice of appeal, the Commissioner shall transmit the record which consists of all documents, correspondence and evaluations which constitute the record to the State Board of Education.

(b) An appeal of any denial of an eligible 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. 6:24.

SUBCHAPTER 4. ADMINISTRATIVE RESPONSIBILITIES OF CHOICE DISTRICTS

6A:12-4.1 General provisions

(a) Choice districts shall accept credits toward graduation that were awarded by another district board of education for each choice student which it accepts.

1. Choice districts shall award a diploma to a choice student participating in the program if that student meets its graduation requirements and the requirements of the State of New Jersey.

(b) Choice districts shall establish a regionwide public information program which provides information to the public that includes the following:

1. Notification that the district is a choice district;
2. Information regarding student application procedures;
3. Information regarding the district, its schools, its programs, its policies and procedures; and
4. Any other information a choice district deems appropriate.

(c) A choice district shall file an annual report no later than August 1 with the Department on a form provided by the Department that includes demographic and student participation information, and an update on the number of available openings.

(d) Choice districts shall establish and maintain a parent assistance center.

1. The center shall assist parents and legal guardians in submitting applications for enrollment of students in an appropriate program and school.

2. All materials available through the regionwide public information program established pursuant to (b) above shall be made available to parents and legal guardians at the parent information center.

SUBCHAPTER 5. TRANSPORTATION

6A:12-5.1 General provisions

(a) Each choice district shall have the responsibility for the transportation of enrolled choice students, who are eligible for transportation services pursuant to (b) below, both to and from the choice school in which that student is accepted.

1. The choice district shall be entitled to State aid pursuant to N.J.S.A. 18A:7F-25 for each choice student transported.

2. The choice district shall be considered a public school offering a specialized program to choice students.

(b) Choice districts shall be responsible to provide transportation services to choice students who reside more than two miles in grades K through eight and more than two and one-half miles in grades nine through 12 and who reside 20 miles or less from the choice district's school unless the cost of such services exceeds the annual maximum statutorily established amount.

1. In the event that the cost of transportation services exceeds the annual maximum statutorily established amount, then the parent or legal guardian may submit a written request to the choice district for such transportation services within seven days of receipt of the choice district's notification to the parent or legal guardian that the cost of transportation services exceeds the annual maximum statutorily established amount. If such a request is made, the choice district shall provide such transportation services and the parent or legal guardian of the choice student shall pay the amount over the annual maximum statutorily established amount to the choice district. If the parent or legal guardian of the choice student does not submit a written request for such transportation services to the choice district within seven days of receipt of the choice district's notice, then the parent or legal guardian shall not receive such transportation services, but shall be entitled to the annual maximum statutorily established amount in lieu of transportation.

2. If the choice district provides aid in lieu of transportation to the parent or guardian, then that amount

shall be consistent with the amount established for non-public school students in N.J.S.A. 18A:39-1 and that payment may be adjusted for late registration or early withdrawal.

i. The parent or legal guardian of each choice student who shall receive aid in lieu of transportation shall submit a voucher for payment supplied by the choice district in accordance with choice district policies.

ii. The choice district shall pay aid in lieu of transportation for each half of the academic year after the voucher for payment is submitted by the parent or legal guardian of the choice student.

iii. The choice district shall not be required to pay aid in lieu of transportation when it receives the voucher for payment after the close of the fiscal year.

3. By August 1, the choice district shall notify the parent or legal guardian of each choice student regarding the arrangements which have been made for the provision for transportation services.

(c) The choice district shall not be responsible for providing transportation for choice students residing less than two miles in grades K through eight and less than two and one-half miles in grades nine through 12, or more than 20 miles from the choice district's school.

SUBCHAPTER 6. FUNDING

6A:12-6.1 General provisions

(a) Choice students participating in this program shall qualify for State aid pursuant to N.J.S.A. 18A:7F-1 et seq.

(b) The sending district shall maintain fiscal responsibility for any student enrolled in or determined to require a private day or residential school.

SUBCHAPTER 7. CHOICE PROGRAM EVALUATION

6A:12-7.1 Annual review

The Commissioner shall annually review the impact of this program on participating students and on both the receiving and sending districts participating in the program. This review shall include an assessment of the fiscal ramifications of the program on all sending districts. The Commissioner shall submit the annual review to the State Board and the Legislature.

6A:12-7.2 Three-year evaluation

(a) By October 1, 2002, the Commissioner shall hold public hearings in the north, central, and southern regions of the State to receive input from members of the educational community and the public on the choice program.

(b) The Commissioner shall commission an independent study of the first three years of the program. The study shall be conducted by an individual or entity identified with expertise in the field of education. The individual or entity shall design a comprehensive study of the program.

(c) The Commissioner shall submit to the State Board of Education and the Legislature an evaluation of the choice program based on the independent study and the choice districts' annual reports by January 1, 2003. The evaluation shall include recommendations for expansion, modification or termination of the program.

1. The Commissioner may not implement any recommended expansion, modification or termination until after six months from submission of the evaluation to the State Board and the Legislature.