

## **22-36-101. Choice of programs and schools within school districts.**

(1) Except as otherwise provided in subsection (3) of this section, every school district, as defined in section 22-30-103 (13), shall allow:

(a) Its resident pupils who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district; and

(b) Commencing with the 1994-95 school year and thereafter, nonresident pupils from other school districts within the state who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district without requiring the nonresident pupils to pay tuition.

(2) (a) Every school district shall adopt such policies and procedures as are reasonable and necessary to implement the provisions of subsection (1) of this section, including, but not limited to, timelines for application to and acceptance in any program or school that may provide for enrollment of the student on or before the pupil enrollment count day, and, while adopting policies and procedures, the school district shall consider adopting a policy establishing that an applicant with a proficiency rating of unsatisfactory in one or more academic areas who attends a public school that is required to implement a turnaround plan pursuant to section 22-11-406 or that is subject to restructuring pursuant to section 22-11-210 shall have priority over any other applicant for enrollment purposes. If a school district permits a student whose parent or guardian is a resident of the state but not a resident of the district to attend school in the district, the school district shall not require the parent, guardian, or student to pay tuition to attend school in the district, regardless of when during the school year, or under what circumstances, the student enrolls in or attends school in the district.

(b) In implementing the provisions of subsection (1) of this section, no school district shall be required to:

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

(II) Establish and offer any particular program in a school if such program is not currently offered in such school;

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

(IV) Enroll any student pursuant to this section in any program or school after the pupil enrollment count day.

(c) As used in this subsection (2), unless the context otherwise requires, "pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(3) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools within such school district only for any of the following reasons:

(a) There is a lack of space or teaching staff within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(b) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or 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 such denial is necessary in order to enable compliance with such desegregation plan.

(e) The student has been expelled, or is in the process of being expelled, for the reasons specified in section 22-33-106 (1)(c.5) or (1)(d) or the student may be denied permission to enroll pursuant to section 22-33-106 (3)(a), (3)(b), (3)(c), (3)(e), or (3)(f).

(4) Repealed.

(5) (a) Except as otherwise provided in paragraph (b) of this subsection (5), any pupil who enrolls in a school district other than the pupil's school district of residence pursuant to this article may remain enrolled in that school district's school or program through the end of the school year.

(b) This subsection (5) shall not apply if:

(I) The nonresident pupil is expelled pursuant to statute from the school or program described in paragraph (a) of this subsection (5);

(II) The nonresident pupil's attendance or participation in the school or program described in paragraph (a) of this subsection (5) requires the school district to perform any of the functions described in subparagraphs (I) to (III) of paragraph (b) of subsection (2) of this section; or

(III) The nonresident pupil is excluded from the school or program described in paragraph (a) of this subsection (5) for any of the reasons described in paragraphs (a) to (d) of subsection (3) of this section.

§ 1, effective June 7; (2) and (3) amended, p. 544, § 2, effective June 8. **L. 92:** (1) amended, p. 515, § 4, effective June 1. **L. 94:** (1), (2)(a), (2)(b)(II), (2)(b)(III), IP(3), and (3)(a) amended and (2)(b)(IV) and (3)(e) added, pp. 557, 558, §§ 1, 2, effective April 6. **L. 2002:** (5) added, p. 1794, § 60, effective June 7. **L. 2003:** Entire section amended, p. 857, § 1, effective July 1. **L. 2009:** (2)(a) amended, (SB 09-163), ch. 293, p. 1544, § 48, effective May 21. **L. 2012:** (2)(a) and (2)(b)(IV) amended and (2)(c) added, (HB 12-1090), ch. 44, p. 153, § 15, effective March 22. **L. 2022:** (2)(a) amended, (HB 22-1390), ch. 237, p. 1747, § 9, effective May 26.