

LEGISLATIVE BILL 62

Approved by the Governor February 12, 2009

Introduced by Adams, 24.

FOR AN ACT relating to schools; to amend sections 79-233, 79-237, 79-238, 79-1007.22, and 79-2110, Reissue Revised Statutes of Nebraska; to change provisions relating to the enrollment option program and learning communities; to provide a duty for the State Department of Education; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-233, Reissue Revised Statutes of Nebraska, is amended to read:

79-233 For purposes of sections 79-232 to 79-246:

(1) Enrollment option program means the program established in section 79-234;

(2) Option school district means the public school district that an option student chooses to attend instead of his or her resident school district;

(3) Option student means a student that has chosen to attend an option school district, including a student who resides in a learning community and ~~who has chosen to attend~~ began attendance as an option student in an option school district in such learning community prior to the effective date of the establishment end of the first full school year for which the option school district will be a member of such learning community, but not including a student who resides in a learning community and who ~~enrolls~~ attends pursuant to section 79-2110 ~~in~~ another school district in such learning community;

(4) Resident school district means the public school district in which a student resides; and

(5) Siblings means all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.

Sec. 2. Section 79-237, Reissue Revised Statutes of Nebraska, is amended to read:

79-237 (1) For a student to ~~attend school~~ begin attendance as an option student in an option school district, ~~which is not in a learning community in which the student resides,~~ the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for ~~enrollment~~ attendance during the following and subsequent school years. Applications submitted after March 15 shall be accompanied by a written release from the resident school district. The option school district shall provide the resident school district with the name of the applicant on or before April 1. The option school district shall notify, in writing, the parent or legal guardian of the student, ~~and~~ the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 1.

(2) For a student who resides in a learning community to begin attendance in an option school district which is a member of such learning community, the student's parent or legal guardian shall submit an application to the school board of the option school district (a) for any learning community established prior to the effective date of this act, between the effective date of this act and April 1, 2009, or (b) for any learning community established thereafter, between September 1 and March 15. Applications submitted after such deadlines shall be accompanied by a written release from the resident school district. Students who reside in a learning community shall only begin attendance in an option school district which is a member of such learning community prior to the end of the first full school year for which the option school district is a member of such learning community. The option school district shall provide the resident school district with the name of the applicant within five days after the applicable deadline. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 10 for applications submitted for school year 2009-10 and on or before April 1 for applications submitted for any school year thereafter. A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only

be used for the purposes of subsection (3) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (3) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (3) of section 79-238.

(3) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

~~(3)~~ (4) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

~~(4)~~ (5) Except as provided in subsection ~~(3)~~ (4) of this section, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district.

~~(5)~~ (6) In each case of cancellation pursuant to subsections ~~(3)~~ and (4) and (5) of this section, the student's parent or legal guardian shall notify the school board of the option school district and the resident school district and the department by March 15 for automatic approval for the following school year.

~~(6)~~ (7) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

~~(7)~~ (8) An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

Sec. 3. Section 79-238, Reissue Revised Statutes of Nebraska, is amended to read:

79-238 (1) Except as provided in section 79-240, the school board of the option school district shall adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building or the availability of appropriate special education programs operated by the option district. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, projected number of students with which the option district will contract based on existing contractual arrangements, and availability of appropriate special education programs. The school board of the option school district may by resolution declare a program, a class, or a school unavailable to option students due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in section 79-266.01.

(2) Any option school district shall give first priority for enrollment to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsections (2) and (4) of section 79-240.

(3) Any option school district that is in a learning community shall give second priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment as defined in section 79-2110 at the school building to which the student will be assigned pursuant to section 79-235.

Sec. 4. Section 79-1007.22, Reissue Revised Statutes of Nebraska, is amended to read:

79-1007.22 (1) For state aid calculated for each of the ~~first two~~ second and third full school fiscal years of a new learning community, each member school district may apply to the department for a new learning community transportation adjustment, on a form prescribed by the department, on or before October 10 of the school fiscal year immediately preceding the school fiscal year for which the new learning community transportation

adjustment would be included in the calculation of state aid. Such form shall require evidence supporting estimates of increased transportation costs for the district due to the provisions of subsection (2) of section 79-611. On or before the immediately following December 1, the department shall approve the estimate of increased transportation costs for use in the adjustment, approve a modified estimate of increased transportation costs for use in the adjustment, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The new learning community transportation adjustment shall equal the approved estimate of increased transportation costs due to the provisions of subsection (2) of section 79-611. School districts shall submit evidence of the actual increase in transportation costs due to the provisions of subsection (2) of section 79-611, and the department shall recalculate the adjustment using such actual costs pursuant to section 79-1065.

Sec. 5. On or before March 1, 2009, and February 1 of each year thereafter, for purposes of subsection (3) of section 79-238 and sections 79-611 and 79-2110, the State Department of Education shall certify to each learning community and each member school district the average percentage of students qualifying for free or reduced-price lunches in each school building in each member school district and in the aggregate for all school buildings in the learning community based on the most current information available to the department on the immediately preceding January 1. The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Sec. 6. Section 79-2110, Reissue Revised Statutes of Nebraska, is amended to read:

79-2110 (1) (a) Each diversity plan shall provide for open enrollment in all school buildings in the learning community, subject to specific limitations necessary to bring about diverse enrollments in each school building in the learning community. Such limitations, for school buildings other than focus schools and programs other than focus programs, shall include giving preference at each school building first to siblings of students who will be enrolled as continuing students in such school building or program for the first school year for which enrollment is sought in such school building and then to students that contribute to the socioeconomic diversity of enrollment at each building and may include establishing zone limitations in which students may access several schools other than their home attendance area school. Notwithstanding the limitations necessary to bring about diversity, open enrollment shall include providing access to students who do not contribute to the socioeconomic diversity of a school building, if, subsequent to the open enrollment selection process that is subject to limitations necessary to bring about diverse enrollments, capacity remains in a school building. In such a case, students who have applied to attend such school building shall be selected to attend such school building on a random basis up to the remaining capacity of such building. A student who has otherwise been disqualified from the school building pursuant to the school district's code of conduct or related school discipline rules shall not be eligible for open enrollment pursuant to this section. Any student who attended a particular school building in the prior school year and who is seeking education in the grades offered in such school building shall be allowed to continue attending such school building as a continuing student.

(b) To facilitate the open enrollment provisions of this subsection, each school year each member school district in a learning community shall establish a maximum capacity for each school building under such district's control pursuant to procedures and criteria established by the learning community coordinating council. Each member school district shall also establish attendance areas for each school building under the district's control, except that the school board shall not establish attendance areas for focus schools or focus programs. The attendance areas shall be established such that all of the territory of the school district is within an attendance area for each grade. Students residing in a school district shall be allowed to attend a school building in such school district.

(c) For purposes of this section and ~~section~~ sections 79-238 and 79-611, student who contributes to the socioeconomic diversity of enrollment means (i) a student who does not qualify for free or reduced-price lunches when, based upon ~~official membership~~, the certification pursuant to section 5 of this act, the school building the student will attend has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or (ii) a student who qualifies for free or reduced-price lunches when, based upon

~~official membership,~~ the certification pursuant to section 5 of this act, the school building the student will attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community.

(2) (a) On or before March 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student residing in a member school district in a learning community may submit an application to any school district in the learning community on behalf of a student who is applying to attend a school building for the following school year that is not in an attendance area where the applicant resides or a focus school, focus program, or magnet school as such terms are defined in section 79-769. On or before April 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, the school district shall accept or reject such applications based on the capacity of the school building, the eligibility of the applicant for the school building or program, the number of such applicants that will be accepted for a given school building, and whether or not the applicant contributes to the socioeconomic diversity of the school or program to which he or she has applied and for which he or she is eligible. The school district shall notify such parent or guardian in writing of the acceptance or rejection.

(b) A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of this section. Nothing in this section requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of this section shall be based on any verified information provided on the application. If no such information is provided the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of this section.

(c) A student may not apply to attend a school building in the learning community for any grades that are offered by another school building for which the student had previously applied and been accepted pursuant to this section, absent a hardship exception as established by the individual school district. On or before September 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, each school district shall provide to the learning community coordinating council a complete and accurate report of all applications received, including the number of students who applied at each grade level at each building, the number of students accepted at each grade level at each building, the number of such students that contributed to the socioeconomic diversity that applied and were accepted, the number of applicants denied and the rationales for denial, and other such information as requested by the learning community coordinating council.

(3) Each diversity plan may also include establishment of one or more focus schools or focus programs and the involvement of every member school district in one or more pathways across member school districts. Enrollment in each focus school or focus program shall be designed to reflect the socioeconomic diversity of the learning community as a whole. School district selection of students for focus schools or focus programs shall be on a random basis from two pools of applicants, those who qualify for free and reduced-price lunches and those who do not qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who do not qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who do not qualify for free and reduced-price lunches. If more capacity exists in a focus school or program than the number of applicants for such focus school or program that contribute to the socioeconomic diversity of the focus school or program, the school district shall randomly select applicants up to the number of applicants that will be accepted for such building. A student who will complete the grades offered at a focus program, focus school, or magnet school that is part of a pathway shall be allowed to attend the focus program, focus school, or magnet school offering the next grade level as part of the pathway as a continuing student. A student who completes the grades offered at a focus program, focus school, or magnet school shall not be considered a continuing student in the school district responsible for the program or

school.

(4) On or before February 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student who is currently attending a school building or program, except a magnet school, focus school, or focus program, outside of the attendance area where the student resides and who will complete the grades offered at such school building prior to the following school year shall provide notice, on a form provided by the school district, to the school board of the school district containing such school building if such student will attend another school building within such district as a continuing student and which school building such student would prefer to attend. On or before March 1, such school board shall provide a notice to such parent or guardian stating which school building or buildings the student shall be allowed to attend in such school district as a continuing student for the following school year. If the student resides within the school district, the notice shall include the school building offering the grade the student will be entering for the following school year in the attendance area where the student resides. This subsection shall not apply to focus schools or programs.

(5) A parent or guardian of a student who moves to a new residence in the learning community after April 1 may apply directly to a school board within the learning community within ninety days after moving for the student to attend a school building outside of the attendance area where the student resides. Such school board shall accept or reject such application within fifteen days after receiving the application, based on the number of applications and qualifications pursuant to subsection (2) or (3) of this section for all other students.

(6) A parent or guardian of a student who wishes to change school buildings for emergency or hardship reasons may apply directly to a school board within the learning community at any time for the student to attend a school building outside of the attendance area where the student resides. Such application shall state the emergency or hardship and shall be kept confidential by the school board. Such school board shall accept or reject such application within fifteen days after receiving the application. Applications shall only be accepted if an emergency or hardship was presented which justifies an exemption from the procedures in subsection (4) of this section based on the judgment of such school board, and such acceptance shall not exceed the number of applications that will be accepted for the school year pursuant to subsection (2) or (3) of this section for such building.

Sec. 7. Original sections 79-233, 79-237, 79-238, 79-1007.22, and 79-2110, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.