

CHAPTER 87

**EDUCATION - PUBLIC SCHOOLS**

**HOUSE BILL 94-1065**

BY REPRESENTATIVES Faatz, Anderson, Berry, Friednash, Hagedorn, Keller, Kerns, Morrison, Owen, Shoemaker, and Williams; also SENATORS Meiklejohn, Owens, Blickensderfer, Mutzebaugh, Norton, R. Powers, Roberts, Schaffer, and Tebedo.

**AN ACT**

**CONCERNING THE INCREASE OF CHOICE WITHIN PUBLIC SCHOOLS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 22-36-101 (1) and (2) (a), the introductory portion to 22-36-101 (3), and 22-36-101 (3) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 22-36-101 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**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 WHICH MAY PROVIDE FOR ENROLLMENT OF THE STUDENT ON OR BEFORE OCTOBER 1.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(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.

(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).

**SECTION 2.** 22-36-101 (2) (b) (II) and (2) (b) (III), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 22-36-101 (2) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**22-36-101. Choice of programs and schools within school districts.** (2) (b) In implementing the provisions of subsection (1) of this section, no school district shall be required to:

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

(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 OCTOBER 1.

**SECTION 3.** 22-32-115 (2) (b), (4), and (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**22-32-115. Tuition for resident school-age children.** (2) (b) A board of education of a district ~~may~~ SHALL permit any child, the parents or guardian of whom ARE RESIDENTS OF THE STATE BUT are not residents of the district, to attend school in the district ~~if the parents or guardian of said child have paid, in the calendar year next preceding the year of attendance, an ad valorem school tax upon real property situate in the district and if the property upon which said tax has been paid is contiguous to the district of residence of the parents or guardian. In such event, a credit, not to exceed the amount of said tax so paid during the preceding calendar year, shall be deducted from the tuition for such child, and the amount of the tuition shall be computed in accordance with the provisions of paragraph (a) of this subsection (2).~~ PURSUANT TO THE PROVISIONS OF SECTION 22-36-101; EXCEPT THAT THE PARENTS OR GUARDIAN OF SUCH CHILD SHALL NOT BE REQUIRED TO PAY TUITION. Nothing in this paragraph (b) shall be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such child to and from the school of attendance. THE BOARD

OF EDUCATION OF ANY SCHOOL DISTRICT MAY PERMIT ANY CHILD, THE PARENTS OR GUARDIAN OF WHOM ARE NOT RESIDENTS OF THE STATE, TO ATTEND SCHOOL IN THE SCHOOL DISTRICT AND MAY REQUIRE THE PARENTS OR GUARDIAN OF THE CHILD TO PAY TUITION ON BEHALF OF THE CHILD.

(4) A district of residence shall not be liable for the tuition of any school-age child except pursuant to a written agreement with the district of attendance. ~~In the absence of such written agreement, the parent or guardian of such school-age child shall be liable for all tuition charged by the district of attendance.~~ A copy of any written agreement between the district of residence and the district of attendance shall be furnished TO the parent or guardian of a child covered by the agreement, and such parent or guardian shall NOT be liable for such part of the tuition, if any, not paid to the district of attendance by the district of residence of such child; EXCEPT THAT SUCH PARENT OR GUARDIAN MAY BE LIABLE FOR THE PAYMENT OF SUCH PART OF THE TUITION IF SUCH PARENT OR GUARDIAN IS NOT A RESIDENT OF THE STATE.

(5) ~~The tuition limitations prescribed by subsection (2) (a) of this section shall not be applicable to the amount of tuition which may be charged by a district of attendance to a nonresident parent or guardian for attendance of his or her child at a school outside the parent or guardian's district of residence contrary to a determination of the board of education of his or her district of residence made pursuant to subsection (1) of this section; nor shall such tuition limitation be applicable to the amount of tuition which a district of attendance may charge for a nonresident educable child with a disability.~~

**SECTION 4.** 22-32-116, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**22-32-116. Exclusion of nonresidents - exception.** ~~A board of education of a school district may exclude from the schools of its district a pupil who is not a resident of the district or who becomes a nonresident of the district subsequent to the time of enrollment; except that a~~ NOTWITHSTANDING THE PROVISIONS OF SECTION 22-36-101, ANY pupil WHO IS ENROLLED AS A RESIDENT STUDENT shall be entitled to complete the semester or other term for credit if ~~he~~ SUCH PUPIL becomes a nonresident, or, if ~~he~~ SUCH PUPIL becomes a nonresident while ~~he is~~ enrolled in the twelfth grade, ~~he~~ SUCH PUPIL shall be entitled to finish that school year as a resident. ~~A board may waive tuition for a nonresident school-age child and provide free textbooks for said child if the board determines that the child is required to reside temporarily in the district in order to have a home and the necessities of life.~~

**SECTION 5.** 22-33-103, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**22-33-103. Free education - tuition may be charged, when.** Any resident of this state who has attained the age of six years and is under the age of twenty-one YEARS is entitled to attend public school in the school district of which he is a resident, during the academic year when the schools of the district are in regular session, and without the payment of tuition, subject only to the limitations of sections 22-33-105 and 22-33-106. Tuition may be charged for a pupil WHO IS not a resident of the school district in which ~~he~~ THE PUPIL attends school ~~and to~~ IF THE SCHOOL DISTRICT OF RESIDENCE AGREES TO PAY SUCH TUITION AS PROVIDED IN SECTION 22-32-115. IN

NO EVENT SHALL THE PARENTS OR GUARDIAN OF SUCH PUPIL BE REQUIRED TO PAY TUITION ON BEHALF OF SUCH PUPIL. TUITION MAY BE CHARGED TO PUPILS WHOSE PARENTS OR GUARDIAN ARE NOT RESIDENTS OF THE STATE AND TO resident or nonresident adult pupils, as otherwise provided by law.

**SECTION 6.** 22-33-106 (3) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**22-33-106. Grounds for suspension, expulsion, and denial of admission.**

(3) The following shall constitute additional grounds for denial of admission to a public school:

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, ~~or~~ 32, OR 36 of this title;

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 6, 1994