

By: Representatives Johnson, Barnett
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To: Education

HOUSE BILL NO. 886

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO
2 IMPLEMENT A POLICY OF OPEN ENROLLMENT WHICH ALLOWS STUDENTS,
3 BEGINNING IN THE 2000-2001 SCHOOL YEAR, TO ATTEND ANY PUBLIC
4 SCHOOL WITHIN THE STATE; TO SPECIFY CERTAIN PROVISIONS THAT MUST
5 BE INCLUDED IN THE OPEN ENROLLMENT POLICY; TO AMEND SECTIONS
6 37-15-13 THROUGH 37-15-17, 37-15-21 AND 37-15-29 THROUGH 37-15-33,
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
8 ACT; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. (1) The State Department of Education shall
11 develop and implement a policy of open enrollment which allows the
12 parent, guardian or custodian of a student to apply for the
13 student's enrollment at any public school within the state. Under
14 the policy, the 2000-2001 school year will be the first year that
15 a student may attend a school other than the school serving the
16 attendance area in which the student resides.

17 (2) Before February 1, 2000, the State Department of
18 Education shall adopt an open enrollment policy that includes
19 provisions addressing the following matters:

20 (a) **Application process.** The State Department of
21 Education shall prepare a uniform application form for each
22 student seeking enrollment in a school other than the school
23 serving the attendance area in which the student resides. The
24 application forms shall be made available to students in the
25 principal's office of each school. The open enrollment policy
26 must specify the date on which the application forms will be made
27 available to students and the deadline by which an application
28 must be submitted by a parent, guardian or custodian of a student
29 to the school at which the student is seeking enrollment.

30 (b) **Openings for nonresident students.** Each school
31 shall establish the maximum number of students from outside the
32 attendance area served by that school which may be enrolled in
33 each particular grade or program in the school. These numbers
34 shall be reported to the State Department of Education before the
35 date on which applications are made available to students. A
36 student who resides in a school's attendance area may not be
37 displaced under any circumstances by a student applying for
38 enrollment in that school from outside the school's attendance
39 area.

40 (c) **Selection of students.** Each school shall select
41 from the applicant pool those students who may be eligible to
42 enroll in the school from outside the school's attendance area on
43 a random basis. Applications may not be opened before their
44 selection. The school shall select such students until the
45 maximum number of openings is achieved.

46 (d) **Waiting list.** In addition to the students selected
47 under paragraph (c) for enrollment from outside the school's
48 attendance area, a number of students shall be selected for the
49 purpose of establishing a waiting list. If those students
50 originally selected do not choose to enroll in the school or are
51 determined to be ineligible for enrollment, students from outside
52 the school's attendance area will be offered the opportunity to
53 enroll in the order that their names appear on the waiting list.

54 (e) **Notification.** The open enrollment policy must
55 establish the date by which each school must notify students
56 applying to enroll in that school from outside the school's
57 attendance area of their acceptance or nonacceptance in the
58 selection process. The State Department of Education shall
59 prepare a form for providing the notice.

60 (f) **Subsequent school years.** A student who is selected
61 for enrollment in a school from outside the school's attendance
62 area may remain enrolled in that school in subsequent school years

63 without reapplying under the open enrollment policy. However, if
64 the school reduces the maximum number of students which may be
65 enrolled in a particular grade or program from outside the
66 school's attendance area in a subsequent school year due to an
67 increase in enrollment from within the school's attendance area,
68 students enrolled in the school under the open enrollment policy
69 will be subject to displacement, with those students most recently
70 enrolled being subject to displacement first.

71 (g) **Return to original school.** A student attending a
72 school under the open enrollment policy may enroll in the school
73 serving the attendance area in which the student resides in
74 between consecutive school years. However, if a student seeks to
75 change his enrollment during a school year, the principal of both
76 schools involved must approve of the change.

77 (h) **Transportation.** The parent, guardian or custodian
78 of a student enrolled in a school other than the school serving
79 the attendance area in which the student resides shall be
80 responsible for transporting the student to and from school or a
81 regular bus stop in that school's attendance area.

82 (3) A student attending a public school other than the
83 school serving the attendance area in which the student resides
84 shall have all of the rights and privileges and shall be subject
85 to the same rules and regulations as students residing in that
86 school's attendance area.

87 SECTION 2. Section 37-15-13, Mississippi Code of 1972, is
88 amended as follows:

89 37-15-13. When any child qualified under the requirements of
90 Section 37-15-9 shall apply or present himself for enrollment in
91 or admission to the public schools of any school district of this
92 state, the school board of such school district shall have the
93 power and authority to designate the particular school or
94 attendance center of the district in which such child shall be
95 enrolled and which he shall attend; no enrollment of a child in a

96 school shall be final or permanent until such designation shall be
97 made by the school board. Except as otherwise provided in Section
98 1 of House Bill No. _____, 1999 Regular Session, no child shall be
99 entitled to attend any school or attendance center except that to
100 which he has been assigned by the school board; however, the
101 principal of a school or superintendent of the district * * *, in
102 proper cases, may permit a child to attend a school temporarily
103 until a permanent assignment is made by the school board.

104 SECTION 3. Section 37-15-15, Mississippi Code of 1972, is
105 amended as follows:

106 37-15-15. (1) In making assignments of children to schools
107 or attendance centers, the school board shall take into
108 consideration the educational needs and welfare of the child
109 involved, the welfare and best interest of all the pupils
110 attending the school or schools involved, the availability of
111 school facilities, sanitary conditions and facilities at the
112 school or schools involved, health and moral factors at the school
113 or schools, and in the community involved, and all other factors
114 which the school board may consider pertinent, relevant or
115 material in their effect on the welfare and best interest of the
116 school district and the particular school or schools involved.
117 All such assignments shall be on an individual basis as to the
118 particular child involved and, in making such assignment, the
119 school board shall not be limited or circumscribed by the
120 boundaries of any attendance areas which may have been established
121 by such board.

122 (2) This section shall not affect the eligibility of a
123 student to enroll in a school other than the school serving the
124 attendance area in which the student resides under the open
125 enrollment policy implemented by the State Department of Education
126 pursuant to Section 1, House Bill No. _____, 1999 Regular Session.

127 SECTION 4. Section 37-15-17, Mississippi Code of 1972, is
128 amended as follows:

129 37-15-17. (1) If the parent, guardian or other person
130 having custody of any child shall feel aggrieved by the assignment
131 of such child to a school or attendance center by the school
132 board, then such parent, guardian or other person * * *, at any
133 time within thirty (30) days after such assignment, may make
134 application in writing to the school board for a review or
135 reconsideration of such assignment. Upon receiving any such
136 application, the school board shall set a time and place for the
137 hearing thereof which time shall be not more than fifteen (15)
138 days after the regular meeting of the board next succeeding the
139 date of the filing of the application. At the time and place so
140 fixed, the person filing such application shall have the right to
141 appear and present evidence in support of the application. After
142 hearing the evidence, the school board shall determine whether the
143 application is well taken and supported by the evidence and shall
144 enter an order either affirming its previous action or modifying
145 or changing same as the school board shall find proper.

146 (2) This section shall not authorize any parent, guardian or
147 custodian aggrieved by the nonacceptance or displacement of his or
148 her child at a particular school under the open enrollment policy
149 implemented by the State Department of Education pursuant to
150 Section 1, House Bill No. _____, 1999 Regular Session, to apply to
151 the school board for a review of a school's decision under the
152 open enrollment policy.

153 SECTION 5. Section 37-15-21, Mississippi Code of 1972, is
154 amended as follows:

155 37-15-21. (1) If any parent, guardian or other person
156 having custody of any child affected by the assignment of such
157 child to a school or attendance center by the school board shall
158 feel aggrieved at the order of the school board provided for in
159 Section 37-15-17, such person * * *, at any time within thirty
160 (30) days from the date of such order, may appeal therefrom by
161 filing a petition for appeal in the circuit court of the county in

162 which the school district involved is located. Upon the filing of
163 such petition for an appeal, process shall be issued for and
164 served upon the president of the school board of the school
165 district involved. Upon being served with process, it shall be the
166 duty of the school board to transmit promptly to the court a
167 certified copy of the entire record of the proceedings as shown by
168 the file of the school board. From the judgment of the circuit
169 court, an appeal may be taken to the Supreme Court in the same
170 manner as other appeals are taken from other judgments of such
171 court.

172 (2) This section shall not authorize any parent, guardian or
173 custodian aggrieved by the nonacceptance or displacement of his or
174 her child at a particular school under the open enrollment policy
175 implemented by the State Department of Education pursuant to
176 Section 1, House Bill No. _____, 1999 Regular Session, to appeal
177 the school's decision under the open enrollment policy to the
178 circuit court.

179 SECTION 6. Section 37-15-29, Mississippi Code of 1972, is
180 amended as follows:

181 37-15-29. (1) Except as provided in subsections (2) through
182 (5) of this section, no minor child may enroll in or attend any
183 school except in the school district of his residence, unless such
184 child is lawfully transferred from the school district of his
185 residence to a school in another school district in accord with
186 the statutes of this state * * *.

187 (2) Those children whose parent(s) or legal guardian(s) are
188 instructional personnel or licensed employees of a school district
189 may, at such employee's discretion, enroll and attend the school
190 or schools of their parent's or legal guardian's employment
191 regardless of the residence of the child.

192 (3) No child shall be required to be transported in excess
193 of thirty (30) miles on a school bus from his or her home to
194 school, or in excess of thirty (30) miles from school to his or

195 her home, if there is another school in an adjacent school
196 district located on a shorter school bus transportation route by
197 the nearest traveled road. Those children residing in such
198 geographical situations * * *, at the discretion of their
199 parent(s) or legal guardian(s), may enroll and attend the nearer
200 school, regardless of the residence of the child. In the event
201 the parent or legal guardian of such child and the school board
202 are unable to agree on the school bus mileage required to
203 transport the child from his or her home to school, an appeal
204 shall lie to the State Board of Education, or its designee, whose
205 decision shall be final.

206 (4) Those children lawfully transferred from the school
207 district of his residence to a school in another school district
208 prior to July 1, 1992, * * * at the discretion of their parent(s)
209 or legal guardian(s), may continue to enroll and attend school in
210 the transferee school district. * * * The brother(s) and
211 sister(s) of those children lawfully transferred prior to July 1,
212 1992, * * * at the discretion of their parent(s) or legal
213 guardian(s), also may enroll and attend school in the transferee
214 school district.

215 (5) Any child selected for enrollment in a school outside
216 the school district in which the child resides under the open
217 enrollment policy implemented by the State Department of Education
218 pursuant to Section 1, House Bill No. _____, 1999 Regular Session,
219 may enroll in and attend school outside the district of his
220 residence; however, if the child is subject to displacement in a
221 subsequent school year, the child must enroll in and attend school
222 in the school district of his residence unless the child is
223 lawfully transferred to a school in another district or accepted
224 for enrollment at another school under the open enrollment policy.

225 SECTION 7. Section 37-15-31, Mississippi Code of 1972, is
226 amended as follows:

227 37-15-31. (1) (a) Except as provided in subsections (2)

228 through (5) of this section, upon the petition in writing of a
229 parent or guardian, resident of the school district of an
230 individual student, filed or lodged with the president or
231 secretary of the school board of a school district in which the
232 pupil has been enrolled or is qualified to be enrolled as a
233 student under Section 37-15-9, or upon the aforesaid petition or
234 the initiative of the school board of a school district as to the
235 transfer of a grade or grades, individual students living in one
236 school district or a grade or grades of a school within the
237 districts may be legally transferred to another school district,
238 by the mutual consent of the school boards of all school districts
239 concerned, which consent must be given in writing and spread upon
240 the minutes of such boards.

241 (b) * * * If such a transfer is refused by the school
242 board of either school district, then an appeal may be had to the
243 county board of education. The county board of education to which
244 the appeal is taken shall act thereon not later than the date of
245 its next regular meeting subsequent to the disapproval or failure
246 to act by the school board of the school district, or not later
247 than the date of its next regular meeting subsequent to the filing
248 of such appeal.

249 (c) The school board of the transferring school
250 district to which such petition may be addressed shall act thereon
251 not later than its next regular meeting subsequent to the filing
252 or lodging of the petition, and a failure to act within that time
253 shall constitute a rejection of such request. The school board of
254 the other school district involved, the transferee board, and the
255 county board of education, if applicable under paragraph (b) of
256 this subsection, shall act on such request for transfer as soon as
257 possible after the transferor board shall have approved or
258 rejected such transfer and no later than the next regular meeting
259 of the transferee board or county board of education, and a
260 failure of such transferee board to act within such time shall

261 constitute a rejection of such request. If such a transfer is
262 approved by the transferee board, and the county board of
263 education if applicable under paragraph (b) of this subsection,
264 then such decision shall be final. If such a transfer is refused
265 by the school board of either school district or the county board
266 of education, then such decision shall be final.

267 (d) Any legal guardianship formed for the purpose of
268 establishing residency for school district attendance purposes
269 shall not be recognized by the affected school board.

270 (2) (a) Upon the petition in writing of any parent or
271 guardian who is a resident of Mississippi and is an instructional
272 or licensed employee of a school district, but not a resident of
273 such district, the school board of the employer school district
274 shall consent to the transfer of such employee's dependent
275 school-age children to its district and shall spread the same upon
276 the minutes of the board. Upon the petition in writing of any
277 parent or guardian who is not a resident of Mississippi and on
278 January 1, 1993, is an instructional or licensed employee of a
279 school district in Mississippi, the school board of the employer
280 school district shall consent to the transfer of such employee's
281 dependent school-age children to its district and shall spread the
282 same upon the minutes of the board.

283 (b) The school board of any school district may, in its
284 discretion, may adopt a uniform policy to allow the enrollment and
285 attendance of the dependent children of noninstructional and
286 nonlicensed employees, who are residents of Mississippi but are
287 not residents of their district. Such policy shall be based upon
288 the employment needs of the district, implemented according to job
289 classification groups and renewed each school year.

290 (c) The employer transferee school district shall
291 notify in writing the school district from which the pupil or
292 pupils are transferring, and the school board of the transferor
293 school district shall spread the same upon its minutes.

294 (d) Any such agreement by school boards for the legal
295 transfer of a student shall include a provision providing for the
296 transportation of the student. In the absence of such a
297 provision, the responsibility for transporting the student to the
298 transferee school district shall be that of the parent or
299 guardian.

300 (e) Any school district which accepts a student under
301 the provisions of this subsection shall not assess any tuition
302 fees upon such transferring student in accordance with the
303 provisions of Section 37-19-27.

304 (3) Upon the petition in writing of any parent or legal
305 guardian of a school-age child who is a resident of an adjacent
306 school district residing in the geographical situation described
307 in Section 37-15-29(3), the school board of the school district
308 operating the school located in closer proximity to the residence
309 of the child shall consent to the transfer of the child to its
310 district, and shall spread the same upon the minutes of the board.

311 Any such agreement by school boards for the legal transfer of a
312 student under this subsection shall include a provision for the
313 transportation of the student by either the transferor or the
314 transferee school district. In the event that either the school
315 board of the transferee or the transferor school district shall
316 object to the transfer, it shall have the right to appeal to the
317 State Board of Education whose decision shall be final. However,
318 if the school boards agreeing on the legal transfer of any
319 student * * * fail to agree on which district shall provide
320 transportation, the responsibility for transporting the student to
321 the transferee school district shall be that of the parent or
322 guardian.

323 (4) Upon the petition in writing of any parent or legal
324 guardian of a school-age child who was lawfully transferred to
325 another school district prior to July 1, 1992, as described in
326 Section 37-15-29(4), the school board of the transferee school

327 district shall consent to the transfer of such child and the
328 transfer of any school-age brother and sister of such child to its
329 district, and shall spread the same upon the minutes of the board.

330 (5) Whenever a child has been accepted for enrollment by a
331 school which is outside the school district in which the child
332 resides under the open enrollment policy implemented by the State
333 Department of Education pursuant to Section 1, House Bill No. _____,
334 1999 Regular Session, the school board of the school district in
335 which the school is situated shall consent to the child's
336 enrollment in and attendance at the school.

337 SECTION 8. Section 37-15-33, Mississippi Code of 1972, is
338 amended as follows:

339 37-15-33. All students seeking to transfer from any school,
340 public or private, within or outside of the boundaries of the
341 State of Mississippi, to a public school within the state may be
342 required to take a test to determine the grade and class to which
343 the pupil shall be assigned at the time of pupil transfer.

344 The administrative head of each public school shall
345 administer the test or tests to such pupil or pupils as shall
346 apply for transfer to such public school. Such test or tests
347 shall be administered within thirty (30) days after the filing of
348 each such application for transfer. Notice of the giving of such
349 test shall be given the applicant not less than five (5) days
350 prior to the date of the administration of such test.

351 No transfer of a pupil shall be effected until the test has
352 been given and the pupil is assigned according to the grade and
353 class for which the test shows he is best suited. No pupil shall
354 be assigned to a grade and class more than three (3) grades above
355 or below the grade or class that the pupil would have been
356 assigned to had the pupil remained in the school from which the
357 transfer is being made. Pending the administration of the test
358 herein provided for and its grading and an assignment based
359 thereon the superintendent of the school district or the

360 attendance center principal to which the pupil seeks admission may
361 assign the pupil temporarily to a grade and class comparable to
362 that in which the pupil would have been had the pupil continued in
363 the school from which the transfer was being made.

364 If any student is transferred or reassigned within the school
365 district * * * as authorized by law of the State of
366 Mississippi * * *, the requirement of that pupil's taking the
367 standardized test shall be waived. Likewise, if a pupil shall
368 transfer from one school district to another school district in
369 the manner provided and required by the laws of the State of
370 Mississippi, the requirement of such pupil taking the standardized
371 test shall be waived.

372 SECTION 9. This act shall take effect and be in force from
373 and after July 1, 1999.