

By: Representative Ketchings

To: Education

HOUSE BILL NO. 934

1 AN ACT TO REQUIRE ALL SCHOOL DISTRICTS TO IMPLEMENT A POLICY
2 OF OPEN ENROLLMENT WHICH ALLOWS STUDENTS, BEGINNING IN THE
3 2004-2005 SCHOOL YEAR, TO ATTEND ANY SCHOOL WITHIN A SCHOOL
4 DISTRICT; TO SPECIFY CERTAIN PROVISIONS THAT MUST BE INCLUDED IN
5 EACH SCHOOL DISTRICT'S OPEN ENROLLMENT POLICY; TO AMEND SECTIONS
6 37-15-13 THROUGH 37-15-21 AND 37-15-33, MISSISSIPPI CODE OF 1972,
7 IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** (1) Each school district shall implement a
11 policy of open enrollment which allows the parent, guardian or
12 custodian of a student to apply for the student's enrollment at
13 any public school within the school district in which they reside.
14 Under the policy, the 2004-2005 school year is 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, 2004, the school board of each school
18 district shall adopt an open enrollment policy that includes
19 provisions addressing the following matters:

20 (a) **Application process.** Each school district shall
21 prepare a uniform application form for each student seeking
22 enrollment in a school other than the school serving the
23 attendance area in which the student resides. The application
24 forms shall be made available to students in the principal's
25 office of each school. The open enrollment policy must specify
26 the date on which the application forms will be made available to
27 students and the deadline by which an application must be
28 submitted by a parent, guardian or custodian of a student to the
29 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 must be reported to the school district's administrative offices
35 before the date on which applications are made available to
36 students. A student who resides in a school's attendance area may
37 not be 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 will 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 in the district must
56 notify students applying to enroll in that school from outside the
57 school's attendance area of their acceptance or nonacceptance in
58 the selection process. The school district shall prepare a form
59 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. _____, 2003 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 does 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 a school
125 district's open enrollment policy implemented pursuant to Section
126 1, House Bill No. _____, 2003 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) The section does 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 school district's open
149 enrollment policy implemented pursuant to Section 1, House Bill
150 No. , 2003 Regular Session, to apply to the school board for a
151 review of a school's decision under the open enrollment policy.

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

154 37-15-21. (1) If any parent, guardian or other person
155 having custody of any child affected by the assignment of such
156 child to a school or attendance center by the school board shall
157 feel aggrieved at the order of the school board provided for in
158 Section 37-15-17, such person * * *, at any time within thirty
159 (30) days from the date of such order, may appeal therefrom by
160 filing a petition for appeal in the circuit court of the county in
161 which the school district involved is located. Upon the filing of



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

171 (2) This section does not authorize any parent, guardian or
172 custodian aggrieved by the nonacceptance or displacement of his or
173 her child at a particular school under the school district's open
174 enrollment policy implemented pursuant to Section 1, House Bill
175 No. , 2003 Regular Session, to appeal the school's decision
176 under the open enrollment policy to the circuit court.

177 **SECTION 6.** Section 37-15-33, Mississippi Code of 1972, is
178 amended as follows:

179 37-15-33. All students seeking to transfer from any school,
180 public or private, within or outside of the boundaries of the
181 State of Mississippi, to a public school within the state may be
182 required to take a test to determine the grade and class to which
183 the pupil shall be assigned at the time of pupil transfer.

184 The administrative head of each public school shall
185 administer the test or tests to such pupil or pupils as shall
186 apply for transfer to such public school. Such test or tests
187 shall be administered within thirty (30) days after the filing of
188 each such application for transfer. Notice of the giving of such
189 test shall be given the applicant not less than five (5) days
190 prior to the date of the administration of such test.

191 No transfer of a pupil shall be effected until the test has
192 been given and the pupil is assigned according to the grade and
193 class for which the test shows he is best suited. No pupil shall
194 be assigned to a grade and class more than three (3) grades above



195 or below the grade or class that the pupil would have been
196 assigned to had the pupil remained in the school from which the
197 transfer is being made. Pending the administration of the test
198 herein provided for and its grading and an assignment based
199 thereon the superintendent of the school district or the
200 attendance center principal to which the pupil seeks admission may
201 assign the pupil temporarily to a grade and class comparable to
202 that in which the pupil would have been had the pupil continued in
203 the school from which the transfer was being made.

204 If any student is transferred or reassigned within the school
205 district * * * as authorized by law of the State of
206 Mississippi * * *, requirement of that pupil's taking the
207 standardized test shall be waived. Likewise, if a pupil shall
208 transfer from one school district to another school district in
209 the manner provided and required by the laws of the State of
210 Mississippi, the requirement of such pupil taking the standardized
211 test shall be waived.

212 **SECTION 7.** This act shall take effect and be in force from
213 and after July 1, 2003.

