

Sixty-eighth
Legislative Assembly
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Sixty-eighth Legislative Assembly of North Dakota

Introduced by

FIRST ENGROSSMENT ENGROSSED HOUSE BILL NO. 1376

Representatives Strinden, Meier, Monson, Pyle, Richter, Satrom, Schreiber-Beck
Senators Davison, Meyer

1 A BILL for an Act to amend and reenact sections 15-19-01, 15.1-07-25.4, 15.1-31-01,
2 15.1-31-06, 15.1-31-07, and 15.1-31-08 of the North Dakota Century Code, relating to virtual
3 instruction of students and open enrollment.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 15-19-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15-19-01. North Dakota center for distance education courses - Establishment -**
8 **Enrollment of students - Courses of instruction.**

9 The state shall provide kindergarten through grade twelve courses, comprehensive
10 educational support, and high school diplomas through the center for distance education under
11 the following provisions:

- 12 1. A complete curriculum prescribed by state-mandated education accreditation entities
13 which meets the requirements for digital education the superintendent of public
14 instruction has determined to be appropriate.
- 15 2. ~~A superintendent or an administrator of a school may deny the enrollment of a student~~
16 ~~in that district at the center for distance education except as provided in subsection 5.~~
- 17 3. The center for distance education may provide services to persons who are not North
18 Dakota residents.
- 19 4.3. ~~Center~~A center for distance education studentsstudent's school district of residence
20 shall pay fees as may be prescribed by the state board for career and technical
21 education.
- 22 5.4. Students exempt from the compulsory school attendance laws pursuant to

Sixty-eighth
Legislative Assembly

23 subdivision e of subsection 1 of section 15.1-20-02 may enroll in distance education
24 courses offered through the center for distance education. These students may study their center
for distance education lessons in their learning environment under the supervision of a parent.

1 **SECTION 2. AMENDMENT.** Section 15.1-07-25.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**
4 **management.**

5 1. The board of a school district or governing board of a nonpublic school that operates a
6 physical school plant may adopt a policy to allow students to engage in virtual
7 instruction ~~through an approved virtual school~~ and in the case of a school district,
8 qualify for average daily membership in the district. A resident school district may not
9 deny open enrollment to an approved virtual school.

10 2. Students and their families shall not receive any item, service or thing of value not
given in exchange for fair market consideration from a vendor providing instruction or
support under this section.

11 2.3. The superintendent of public instruction shall adopt rules governing policies under this
12 section. A policy adopted by a school district under this section must comply with the
13 rules adopted by the superintendent of public instruction.

14 3.4. The superintendent of public instruction shall provide biennial reports to the legislative
15 management regarding the academic performance metrics of students participating in
16 virtual instruction under this section.

17 5. Students enrolled in an approved virtual school do not generate school district sized
weighting factor pursuant to section 15.1-27-03.2.

18
19 2. The superintendent of public instruction shall adopt rules governing policies under this
20 section. A policy adopted by a school district under this section must comply with the
21 rules adopted by the superintendent of public instruction.

22 3. The superintendent of public instruction shall provide biennial reports to the legislative
23 management regarding the academic performance metrics of students participating in
24 virtual instruction under this section.

25 **SECTION 3. AMENDMENT.** Section 15.1-31-01 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **15.1-31-01. Open enrollment - Procedure.**

28 1. By March first of the school year preceding the year of enrollment, a parent who

Commented [BKK1]: We removed this language based on NDSBA concern that it causes conflict with schools using virtual snow days. Adam Tescher and Joe Kolosky from NDDPI said it is not necessary anyway. Every ND school district or nonpublic school would already be going through the approval process to operate each August of every year and their virtual schools are included.

Commented [BKK2]: This language was borrowed from ND ethics law language and simply means parents may not receive the kickbacks of cash or credits or other incentives from a vendor or for a service either directly or indirectly.

Commented [BKK3]: This prevents any school from getting any more than the base student foundation aid payment (currently \$10,237 per student) for virtually enrolled students and be making money off them.

Sixty-eighth
Legislative Assembly

- 29 wishes to enroll a student in a North Dakota school district other than the student's
30 district of residence shall file an application for approval with the board of the admitting
31 district and shall file a copy of the application with the student's district of residence.
32 The superintendent of public instruction shall make the application forms available in
33 each school district.
- 34 2. By April first of the school year preceding the year of enrollment, the board of the
35 admitting district shall approve or deny the application. The board of the admitting
36 district shall notify the board of the district of residence and the student's parent of its
37 decision within five days.
- 1 3. Notice of intent to enroll in the admitting district obligates the student to attend the
2 admitting district during the following school year unless the school boards of the
3 resident and the admitting districts agree in writing to allow the student to transfer back
4 to the resident district or the student's parent relocates to another district.
- 5 4. A parent who wishes to enroll a student in a school district other than the student's
6 district of residence shall file an application for approval with the board of the admitting
7 district. All applications must be reviewed in the order ~~they are~~ received.
- 8 5. A student whose school district of residence does not offer the grade level in which the
9 student requires enrollment may not participate in open enrollment. For purposes of
10 determining whether the grade level in which the student requires enrollment is
11 offered, the several school districts cooperating with each other for the joint provision
12 of education services under a plan approved by the superintendent of public
13 instruction must be considered to be a single district.
- 14 6. A child placed for purposes other than education in a group or residential care facility
15 or in a psychiatric residential treatment facility is not eligible for open enrollment under
16 this section.
- 17 7. The board of a school district of residence and the board of an admitting district shall
18 waive the application, consideration, and approval dates in this section for any student
19 who, together with the student's parent, moves from the student's school district of
20 residence to another school district and who wishes to enroll in a school district other
21 than the district to which the student moved.
- 22 8. The board of a school district of residence and the board of an admitting district shall
23 waive the application, consideration, and approval dates in this section for any student
24 who, together with the student's parent, moves into this state from out of state and

25 who wishes to enroll in a school district other than the district to which the student
26 moved.

27 **SECTION 4. AMENDMENT.** Section 15.1-31-06 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **15.1-31-06. Open enrollment - School boards - Standards.**

- 30 1. The board of each school district shall set standards for the acceptance and denial of
31 applications for admittance under open enrollment as provided in section
1 ~~15.1-31-04~~ 15.1-31-08. The standards may address the capacity of a program, ~~class,~~
2 grade level, or school building. The standards may not address previous academic
3 achievement, participation in extracurricular activities, disabilities, English language
4 proficiency, or previous disciplinary proceedings.
- 5 2. A board may ~~also~~ determine that applications for admittance under open enrollment, in
6 accordance with this chapter, will not be considered only if there is a lack of capacity in
7 a program, grade level, or school.
- 8 3. a. A school district participating in an open enrollment program may not give or offer
9 to give a student remuneration, or directly exert influence on the student or the
10 student's family, in order to encourage participation in the open enrollment
11 program. The actions prohibited under this subdivision do not include providing
12 informational materials about the program.
- 13 b. ~~For purposes of this subsection, directly exerting influence means providing~~
14 ~~information about the school district to individuals who are not residents of that~~
15 ~~district unless the information is requested.~~
- 16 e. If the members of the board of a school district believe that another school district
17 has violated this subsection, the board may file a complaint with the
18 superintendent of public instruction. Upon receipt of a complaint alleging a
19 violation of this subsection, the superintendent of public instruction shall hold a
20 hearing and accept testimony and evidence regarding the complaint. If the
21 superintendent finds that a school district has violated this subsection, the
22 superintendent may withhold some or all of the state aid payments to which the
23 district would be otherwise entitled for a period of one year from the date of the
24 finding. A decision by the superintendent under this subsection is appealable to
25 the state board of public school education. A decision by the state board of public
26 school education is final.

27 **SECTION 5. AMENDMENT.** Section 15.1-31-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **15.1-31-07. Students not subject to this chapter.**

30 1. If a student, as a result of a school district dissolution or reorganization, resides in a
31 district other than the one the student chooses to attend at the time of the dissolution or
1 reorganization, the student is not subject to this chapter and may attend school in the chosen
2 school district.

3 ~~2. If a student resides in a district other than the one the student is enrolled in for~~
4 ~~purposes of receiving virtual instruction, the student is not subject to this chapter~~
5 ~~unless a cost-sharing agreement is established between the school district of~~
6 ~~residence and the receiving district.~~

7 **SECTION 6. AMENDMENT.** Section 15.1-31-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15.1-31-08. Open enrollment - Transfer of students - Responsibility of district of**
10 **residence.**

11 1. ~~Notwithstanding the provisions of chapter 15.1-31, a~~ A student's parent may apply to a
12 ~~contiguous~~ another school district for admission of the student at any time during the
13 school year if:

14 a. The student was a victim of violence occurring within the school in which the
15 student was enrolled and the violence was documented;

16 b. The superintendent of public instruction has declared the school in which the
17 student was enrolled to be an unsafe school; or

18 c. The superintendent of public instruction has identified the school in which the
19 student was enrolled as one that requires program improvement for six
20 consecutive years.

21 2. The school district receiving an application under subsection 1 shall review the
22 application to ensure compliance with the provisions of subsection 1 and shall notify
23 the student's parent and the student's school district of residence of the arrangements
24 for the student's transfer within five days from the date the application was received.

25 3. The student's school district of residence shall consider the student transferred as of
26 the date of enrollment by the admitting district.

27 4. Upon transfer of a student under this section, the board of the admitting district and
28 the board of the student's school district of residence shall enter into a tuition

Sixty-eighth
Legislative Assembly

29 agreement. The student's school district of residence shall reimburse the admitting
30 district for all costs incurred by the admitting district in providing education for the
31 student.

1 5. The student's school district of residence shall transport the student to school in the
2 admitting district or shall reimburse the admitting district for all costs incurred in
3 transporting the student or providing for the transportation of the student to school in
4 the admitting district. These transportation costs are not reimbursable through state
5 transportation funds.

6 6. ~~The provisions of this~~This section are applicable~~applies~~ to a student until the student's
7 parent or legal guardian decides to enroll the student in another school, or in the case
8 of a student who has been transferred for the student's safety or due to a school's
9 improvement status under subsection 1, until the conclusion of the school year in
10 which the superintendent of public instruction declares that the school in the student's
11 district of residence is no longer an unsafe school or that the school no longer requires
12 program improvement.

1 **SECTION 7. AMENDMENT.** Section 15.1-07-25.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15.1-07-25.4. Virtual learning - School district policy - Report to legislative**
4 **management and legislative assembly.**

5 The board of a school district or governing board of a nonpublic school that operates a
6 physical school plant may adopt a policy to allow students to engage in virtual instruction and in
7 the case of a school district, qualify for average daily membership in the district. The
8 superintendent of public instruction shall adopt rules governing policies under this section. A
9 policy adopted by a school district under this section must comply with the rules adopted by the
10 superintendent of public instruction. The superintendent of public instruction shall provide
11 biennial reports~~an annual report~~ to the legislative management regarding in even-numbered
12 years and the legislative assembly in odd-numbered years comparing the academic
13 performance metrics of students participating in virtual instruction with students not participating
14 in virtual instruction under this section using the statewide prekindergarten through grade twelve
15 strategic vision framework goals. If the superintendent of public instruction does not have
16 access to academic performance reports of a school district's virtual instruction subgroup
1 because of low group size, the district shall provide the annual report required under this
section for the district's comparison data.

Commented [BKK4]: This section was added to strengthen the reporting required because we want to make sure that there is accountability for schools who are collecting foundation aid for the learning of all students who are enrolled in their virtual school to guarantee the students are learning and schools aren't just collecting money.