HB 1492-LOCAL - AS INTRODUCED

2018 SESSION

18-2530
06/05

HOUSE BILL ***1492-LOCAL***

AN ACT relative to a course of action when a child's attendance at a school has resulted in a manifest educational hardship.

SPONSORS: Rep. Ladd, Graf. 4; Rep. Cordelli, Carr. 4; Sen. Giuda, Dist 2; Sen. Ward, Dist 8

COMMITTEE: Education

ANALYSIS

This bill provides a course of action when a child's attendance at an assigned school results in an educational hardship.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

18-2530
06/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to a course of action when a child's attendance at a school has resulted in a manifest educational hardship.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 School Attendance; Change of School. Amend RSA 193:3 to read as follows:

193:3 Change of School or Assignment.

I. Any person having custody of a child ***whose attendance at the school to which the child has been assigned has resulted in a manifest educational hardship or has been determined to be not in the best interest of the child*** may apply to the school board for relief [~~if the person thinks the attendance of the child at the school to which such child has been assigned will result in a manifest educational hardship to the child~~]. ***Upon notice from the school district superintendent, principal, a parent or custodian, or a medical doctor or psychologist that a child's attendance at the assigned school has resulted in a manifest educational hardship or is not in the best interest of the child, the school board shall consider and recommend a course of action for relief. The school board may recommend reassignment or transfer to another classroom or placement within the school, to another public school or public academy within the school district, to a public school or public academy outside the school district, or propose another action that may offer relief.*** If the person having custody of the child is aggrieved by the decision of the school board, the person may appeal to the state board of education, and the state board of education, after investigating the case and giving notice to the school board, may order such child to attend another school in the same district, if such a school is available, or to attend school in another district. [~~In case~~] ***If*** the child is assigned to attend school in another district, the district in which such child resides shall pay tuition computed as provided in RSA 193:4 to the district in which such child attends. The state board of education may also permit such child to withdraw from school attendance for such time as it may deem necessary or proper or may make such other orders with respect to the attendance of such child at school as in its judgment the circumstances require. Children with disabilities as defined in RSA 186-C:2 shall be accorded a due process review pursuant to rules adopted under RSA 186-C:16.

II. The state board of education shall adopt rules pursuant to RSA 541-A, relative to [~~manifest educational hardship and related issues which affect a child's attendance at school~~] ***a child whose attendance at the school to which the child has been assigned has resulted in a manifest educational hardship or has been determined to be not in the best interest of the child.*** Each school district shall establish a ***change of school or assignment*** policy[~~, consistent with the state board's rules,~~] which shall allow a school board, [~~with the~~] ***upon receiving***

a recommendation [~~of~~] ***from*** the superintendent, ***the child's parent or custodian, or a medical doctor or psychologist*** to take appropriate action including, but not limited to, assignment to [~~a public school in another district~~] ***another classroom or placement within the school, to another public school or public academy within the school district, to a public school or public academy outside the school district, or to propose another action that may offer relief*** when manifest educational hardship is shown ***or reassignment or transfer is determined to be in the best interest of the child***.

III.(a) Each school board shall establish a change of school assignment policy, based on the best interest of the pupil and requiring a vote of the school board to reassign a pupil from the public school to which he or she is currently assigned to another public school ***or public academy***, or to approve a request from another superintendent to accept a transfer of a pupil from a school district that is not part of the school administrative unit, provided that the following conditions are met:

(1) The pupil's parent or legal guardian petitions the superintendent for a change of school assignment or consents to the superintendent's recommendation for such a change; and

(2) The superintendent determines that such a change would be in the pupil's best interest; and

(3) The school board of each school district involved in the reassignment of the pupil votes to approve the reassignment; and

(4) The total reassignments or transfers in any one school year shall not exceed one percent of the average daily membership in residence of a school district, or 5 percent of the average daily membership in residence of any single school, whichever is greater, unless the school board votes to exceed this limit.

(b) In accordance with the number of pupils authorized in this paragraph, a superintendent may recommend reassignment of a pupil:

(1) To another school within the same school district; or

(2) To another school district within the same school administrative unit; or

(3) To a school district in another school administrative unit, subject to the pupil meeting the admission requirements of such school, and subject to the agreement of the superintendent of the receiving school administrative unit and the approval of the school boards of each school district[~~.~~]***; or***

(4) To another classroom or placement within the school; or

(5) Propose another action that may offer relief.

(c) A pupil reassigned under this paragraph shall be counted in the average daily membership in residence of the pupil's resident school district. The pupil's resident district shall forward any tuition payment due to the district to which the pupil was reassigned.

(d) The superintendents involved in the reassignment of a pupil shall jointly establish a tuition rate for each such pupil. Some or all of the tuition may be waived by the superintendent of the receiving district for the good cause shown or pursuant to school board policy of the receiving

district. The cost of transportation shall be the responsibility of the parent or legal guardian.

(e) The superintendent of the pupil's resident school administrative unit shall notify the department of education within 30 days of any reassignment of pupils under this paragraph.

(f) Nothing in this paragraph shall alter or impair the right of a child with a disability, as defined in RSA 186-C:2, to be accorded a due process review pursuant to rules adopted under RSA 186-C:16.

(g) Notwithstanding RSA 21-N:11, III, for the purposes of this paragraph, the decision of the superintendent shall be final.

IV.(a) Any person having custody of a child may apply to enroll that child in a public school or public academy outside the school district in which the person and child reside. If the non-resident school district or public academy agrees to enroll the child it may charge tuition to the parent or may enter into an agreement for payment of tuition with the school district in which the child resides.

(b) When a child is enrolled pursuant to subparagraph (a), the district in which the child is enrolled shall immediately notify the district in which the child resides of the name, date of birth, address, and grade assignment of the child. This same notification shall be made at the beginning of each school year for which the child is enrolled.

(c) When a child is enrolled pursuant to subparagraph (a), the district in which the child resides shall retain all responsibility for the provision of special education and related services pursuant to RSA 186-C.

(d) The decision by a school district or a public academy to deny enrollment of a non-resident pupil shall not be based, in whole or in part, on whether such pupil is a child with a disability as defined in RSA 186-C:2, I, or a child that requires an accommodation under the Rehabilitation Act of 1973, as amended.

(e) The decision of a parent to enroll a child in a charter school shall not be subject to the provisions of this section.

(f) Disputes related to the provision of special education services under this paragraph shall be governed by RSA 186-C.

V. A placement made by a child's special education team pursuant to that child's individualized education program shall not be deemed a change of school assignment for purposes of this section.

VI. If there is no public school for the child's grade in the resident district, the school board may assign the child to another public school in another school district or to any nonsectarian private school that has been approved as a school tuition program by the school board. The school board may execute a contract with an approved nonsectarian private school to provide for the education of a child who resides in the school district, and may raise and appropriate money for the purposes of the contract, if the school district does not have a public school at the pupil's grade level and the school board decides it is in the best interest of the pupil.

VII. In this section, "approved as a school tuition program" means a school that has been approved and contracted by the school board to provide students with the opportunity to acquire an adequate education as defined in RSA 193-E:2. Upon approval by the school board, the school shall receive status as an approved school tuition program, shall be deemed in compliance with the provisions of RSA 193-E:3-b, I(a) and (b), and shall qualify as a school approved to provide the opportunity for an adequate education. The school shall be required to submit to the school board an annual student performance progress report in a format selected by the school board, which may include reporting of aggregate achievement data to protect student privacy, and that demonstrates that students are afforded educational opportunities that are substantially equal in quality to state performance standards for determining an adequate education. A private school that receives tuition program students shall:

(a) Comply with statutes and regulations relating to agency approvals such as health, fire safety, and sanitation;

(b) Be a nonsectarian school;

(c) Be incorporated under the laws of New Hampshire or the United States; and

(d) Administer an annual assessment in reading and language arts, mathematics, and science as defined in RSA 193-C:6 to tuition program students. The assessment may be any nationally recognized standardized assessment used to measure student academic achievement, shall be aligned to the school's academic standards, and shall satisfy the requirements of RSA 193-C:6 for school tuition program students. The school's annual assessment results for tuition program students shall be submitted to the commissioner and school board. If the school enrolls 10 or more publicly-funded tuition program students and if the school's group assessment percentile score for tuition program students is less than the 40th percentile, the commissioner may require a site visit to determine if the school provides the opportunity for an adequate education in accordance with RSA 193-E:3-b. After the third consecutive year of a tuition program school being unable to demonstrate that it provides an opportunity for an adequate education, the school may be subject to revocation of tuition program status.

VIII. In this section, "manifest educational hardship" means the difficulty, as well as the deprivation arising not only from problems of access to the school originally assigned, but also those matters not in the best interest of the child that adversely affect the child's physical or mental condition. A level 1 or level 2 school that shows no academic achievement and growth for 2 consecutive years shall be deemed a failing school by the department and not in the best interest of the child and therefore subject to provisions of this chapter.

2 Effective Date. This act shall take effect 60 days after its passage.