

DISABILITY RIGHTS CENTER - NH

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Via Electronic Mail Only

Education Policy and Administration Committee
NH House of Representatives
1 Granite Place, Room 232
Concord, NH 03301

RE: SB 101-FN, authorizing parents to enroll their children in any public school in the state

Dear Chairwoman Noble and Members of the Committee:

I am writing on behalf of the Disability Rights Center – NH (DRC-NH) to voice our opposition to SB 101-FN, as amended by the Senate as well as Unapproved Amendment No. 2026-1271s. As New Hampshire’s federally designated protection and advocacy system for people with disabilities, DRC-NH is concerned that this bill and the proposed amendment would significantly undermine the rights of students with disabilities.

DRC-NH has identified three overarching concerns with SB 101-FN and the proposed amendment:

1. Risk of discriminatory enrollment practices.

Although the bill and proposed amendment prohibit schools from rejecting applicants based on disability, they allow denials for “chronic absenteeism” and “significant disciplinary issues”—factors often directly related to a student’s disability. Students with serious medical conditions, emotional disabilities, or behavioral health challenges frequently experience extended absences or discipline related to their disabilities. Using either of these “permissible reasons” to deny enrollment would likely result in the disproportionate denial of admissions to students with disabilities in violation of their rights guaranteed by both Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA).

2. Likely delays or failures in implementing IEPs and Section 504 Plans for Students who transfer to open enrollment schools.

Under both SB 101 and the proposed amendment, the resident district would remain responsible for ensuring that every student with a disability who resides in their district receives a free appropriate public education (FAPE), including ensuring every student receives the specialized instruction and related services specified in their Individualized Education Programs (IEPs),

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regardless of where they attend school. This structure creates substantial risks for miscommunication, slower decisions, and service delays – especially when the receiving district lacks the necessary staff or equipment to meet a student’s needs on short notice. Students may miss required specialized instruction or related services while the sending and receiving school districts work to ensure the student’s IEP is implemented. The parent’s recourse would be to file for due process and seek compensatory services – a complicated and costly process.

SB 101 and the proposed amendment are silent regarding how students with Section 504 plans would receive the accommodations, modifications or other supports they require to enjoy equal access to school. Going without some of these supports, such as access to nursing services for medication administration, tube feeding, or emergency care, may be life threatening. Yet, neither SB 101 nor the proposed amendment provide clear instruction concerning which district would be responsible for ensuring the access needs of students with disabilities are provided. If a receiving school district cannot provide the supports or services a student with a disability requires, how will the student be accommodated? How would disputes be resolved?

3. Reduced capacity of resident districts will result in denials or delays in services for students with disabilities who remain enrolled.

Regardless of the funding mechanism (SB 101’s tuition transfer or the proposed amendment’s diversion of adequacy funding), open enrollment would reduce revenue for resident districts whose students transfer to open enrollment schools while increasing administrative obligations for those students who have IEPs. This combination would make it harder for under-resourced districts to deliver required special education and related services to students who stay in their schools. It would further diminish the educational opportunities for students whose parents cannot afford to take time off from work to transport them to “better” school districts. It could also lead to increased litigation against school districts who fail to provide a FAPE for resident students with disabilities, regardless of where they attend school.

For all the above-reasons, DRC-NH strongly urges the Committee to oppose both SB 101-FN and Proposed Amendment No. 2026-1271s and to recommend SB 101 be found inexpedient to legislate.

Thank you for your consideration.

Sincerely,



Karen L. Rosenberg
Policy Director