

HOUSE BILL 959

By Slater

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to open enrollment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-2-128(f), is amended by adding the following as new subdivisions:

(3) Except as otherwise provided in this section, each LEA shall allow nonresident students who apply pursuant to the procedures established pursuant to this section and §§ 49-6-3104 and 49-6-3105 to enroll in a school within the LEA if space is available.

(4) Each LEA shall adopt a policy to establish a process to participate in open enrollment for nonresident students and publish the policy on the LEA's website. The policy must:

- (A) Adhere to federal desegregation requirements;
- (B) Allow parents to declare school preferences;
- (C) Provide a lottery procedure to determine student assignment and establish an appeal process for hardship cases;
- (D) Identify schools that have not reached capacity, as determined by the LEA pursuant to subsection (a); and
- (E) Establish if the LEA will charge nonresident students a fee in accordance with § 49-6-3003.

(5) For purposes of implementing subdivision (f)(4), an LEA is not required to:

(A) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school;

(B) Establish and offer a particular program in a school if the program is not currently offered in the school; or

(C) Alter or waive an established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.

(6) An LEA may deny a nonresident student permission to enroll in a particular program or school within the LEA only for the following reasons:

(A) There is a lack of space or teaching staff within a particular program or school requested;

(B) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, or required levels of performance;

(C) A desegregation plan is in effect for the school district, and the denial is necessary to enable compliance with the desegregation plan; or

(D) The student is expelled from the school pursuant to § 49-6-3401.

(7) A school receiving a request for enrollment from a nonresident student must issue a written decision accepting or denying the request within ten (10) days of receiving the request for enrollment, or within ten (10) days of the conclusion of the open enrollment application period for nonresident students, whichever is later. If a request is denied, then the written decision must cite the school's specific reason for the denial. Failure to issue a written decision within the time period allotted in this subdivision (f)(7) results in an automatic acceptance of the request and enrollment of the nonresident

student within the school district, subject to other applicable laws regarding the enrollment of students in public schools.

(8) A student who, pursuant to this subsection (f), requests to enroll in a school district in which the student does not reside and is denied enrollment may appeal the decision to the LEA in which the enrollment was denied for the student. The student shall submit a request for a hearing to the appropriate governing body of the LEA within ten (10) days of receiving the denial of enrollment. The student is entitled to a prompt and fair hearing. Review of the case is de novo and must be in accordance with the LEA's policies. Prior to the hearing, the parties may issue subpoenas or take or cause depositions to be taken when, in the LEAs opinion, justice would be served thereby. At the hearing, parties may be represented by counsel and are permitted to present relevant evidence, including calling and questioning witnesses. The school board shall ensure a transcript of the proceeding is recorded. The school board shall hold the hearing within thirty (30) days of receiving a written request, unless the parties mutually agree otherwise, and the school board shall issue a written order within ten (10) days of the hearing. The written order must contain findings of fact, conclusions of law, and the disposition of the matter.

SECTION 2. The state board of education may promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act takes effect July 1, 2023, the public welfare requiring it.