

§§1-11 -  
C.18A:36B-14 to  
18A:36B-24  
§12 - Repealer

P.L.2010, CHAPTER 65, *approved September 9, 2010*  
Assembly, No. 355 (*Second Reprint*)

1    **AN ACT** establishing a permanent Interdistrict Public School Choice  
2        Program, supplementing chapter 36B of Title 18A of the New  
3        Jersey Statutes, and repealing parts of the statutory law.

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5        **BE IT ENACTED** by the Senate and General Assembly of the State  
6        of New Jersey:

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8        1.    This act shall be known and may be cited as the "Interdistrict  
9        Public School Choice Program Act."

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11       2.    As used in this act:

12       "Choice district" means a public school district, established  
13       pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
14       Statutes, which is authorized under the interdistrict public school  
15       choice program to open a school or schools to students from  
16       sending districts;

17       "Commissioner" means the Commissioner of Education;

18       <sup>1</sup>["Receiving district" means the district receiving a student from  
19       a sending district;]<sup>1</sup>

20       "Sending district" means the district of residence of a <sup>1</sup>choice<sup>1</sup>  
21       student.

22  
23       3.    The Commissioner of Education shall establish an  
24       interdistrict public school choice program which shall provide for  
25       the creation of choice districts. A choice district may enroll  
26       students across district lines in designated schools of the choice  
27       district.

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29       4.    a. A proposed choice district shall submit an application to  
30       the commissioner no later than April 30 in the year prior to the  
31       school year in which the choice program will be implemented;  
32       except that for the first year of implementation of the program  
33       pursuant to P.L.     , c.     (C.     ) (pending before the Legislature as  
34       this bill), the application shall be submitted no later than the date  
35       specified by the commissioner. The application shall include, but  
36       not be limited to, the following information:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AED committee amendments adopted February 18, 2010.

<sup>2</sup>Senate SBA committee amendments adopted June 24, 2010.

1 (1) a description of programs and schools and the number of  
2 student openings in each school identified by grade level which are  
3 available for selection;

4 (2) the provision for the creation of a parent information center;

5 (3) a description of the student application process and any  
6 criteria required for admission; 'and'

7 (4) an analysis of the potential impact of the program on student  
8 population diversity in all potential participating districts and a plan  
9 for maintaining diversity in all potential participating districts,  
10 which plan shall not be used to supersede a court-ordered or  
11 administrative court-ordered desegregation plan **['**;

12 (5) the provision for screening out students during the  
13 application process who wish to attend a school for athletic,  
14 extracurricular, or social reasons; and

15 (6) after agreement with potential sending districts, the school  
16 district responsible for the transportation, or aid-in-lieu-of  
17 transportation, for students participating in the choice program from  
18 each of the potential sending districts **']'**.

19 The commissioner shall notify a choice district of the approval or  
20 disapproval of its application no later than July 30, and the reasons  
21 for disapproval shall be included in the notice; except that for the  
22 first year of implementation of the program pursuant to P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill), notification  
24 shall be no later than the date specified by the commissioner.

25 The commissioner shall notify the State Board of Education of  
26 the approval of a choice district application and the State board  
27 shall include a public notice of the approval on the next agenda for  
28 its public monthly meeting.

29 b. The commissioner may take appropriate action, consistent  
30 with State and federal law, to provide that student population  
31 diversity in all districts participating in a choice district program is  
32 maintained. Student population diversity shall include, but not be  
33 limited to, the ethnic, racial, economic, and geographic diversity of  
34 a district's student population. The actions may include, but need  
35 not be limited to:

36 (1) directing a choice district to take appropriate steps to  
37 implement successfully the district's plan for maintaining student  
38 population diversity;

39 (2) restricting the number of choice students from a sending  
40 district or the authority of a choice district to accept choice students  
41 in the future; and

42 (3) revoking approval of the choice district. Any choice student  
43 who is attending a designated school in a choice district at the time  
44 of the commissioner's revocation of approval shall be entitled to  
45 continue to be enrolled in that school until graduation.

1        5. The commissioner shall evaluate an application submitted by  
2 a proposed choice district according to the following criteria:

- 3        a. the fiscal impact on the district;  
4        b. the quality and variety of academic programs offered within  
5 the district;  
6        c. the potential effectiveness of the student application process  
7 and of the admissions criteria utilized;  
8        d. the impact on student population diversity in the district; and  
9        e. the degree to which the program will promote or reduce  
10 educational quality in the choice district and the sending districts.

11  
12        6. Any choice district established by the commissioner prior to  
13 the effective date of P.L. , c. (C. ) (pending before the  
14 Legislature as this bill) is authorized to continue operation as if the  
15 choice district had been approved pursuant to the provisions of  
16 P.L. , c. (C. ) (pending before the Legislature as this bill).

17  
18        7. a. The parents or guardian of a student shall notify the  
19 sending district of the student's intention to participate in the choice  
20 program and shall submit an application to the choice district,  
21 indicating the school the student wishes to attend, no later than the  
22 date specified by the commissioner. To be eligible to participate in  
23 the program, a student shall be enrolled at the time of application in  
24 grades preschool through '[9] 12' in a school of the sending  
25 district and have attended school in the sending district for at least  
26 one full year immediately preceding enrollment in the choice  
27 district <sup>2</sup>['; except that the] , provided that a "sending district"  
28 includes any school district that a student in a particular district of  
29 residence is required by law to attend. The<sup>2</sup> one-year requirement  
30 shall not apply to a student enrolling in preschool or kindergarten in  
31 the choice district, if that student has a sibling enrolled in the choice  
32 district. Openings in a designated school of a choice district shall  
33 be on a space-available basis, and if more applications are received  
34 for a designated school than there are spaces available, a lottery  
35 shall be held to determine the selection of students. Preference for  
36 enrollment may be given to siblings of students who are enrolled in  
37 a designated school.

38        <sup>1</sup>If there is an opening in a designated school of a choice district  
39 and there is no student who is enrolled in a sending district who  
40 meets the attendance requirements of this subsection, including a  
41 student who has been placed on a waiting list based on a lottery  
42 held in the choice district, then the choice district may fill that  
43 opening with a public school student who does not meet the  
44 attendance requirements of this subsection or a nonpublic school  
45 student.<sup>1</sup>

46        b. A choice district may evaluate a prospective student on  
47 <sup>1</sup>['reasonable criteria, including']<sup>1</sup> the student's interest in the

1 program offered by a designated school. The district shall not  
2 discriminate in its admission policies or practices on the basis of  
3 athletic ability, intellectual aptitude, English language proficiency,  
4 status as a handicapped person, or any basis prohibited by State or  
5 federal law.

6 c. A choice district shall not prohibit the enrollment of a  
7 student based upon a determination that the additional cost of  
8 educating the student would exceed the amount of additional State  
9 aid received as a result of the student's enrollment. A choice  
10 district may reject the application for enrollment of a student who  
11 has been classified as eligible for special education services  
12 pursuant to chapter 46 of Title 18A of the New Jersey Statutes if  
13 that student's individualized education program could not be  
14 implemented in the district, or if the enrollment of that student  
15 would require the district to fundamentally alter the nature of its  
16 educational program, or would create an undue financial or  
17 administrative burden on the district.

18 d. A student whose application is rejected by a choice district  
19 shall be provided with a reason for the rejection in the letter of  
20 notice. The appeal of a rejection notice may be made to the  
21 commissioner.

22 e. Once a student is enrolled in a designated school, the student  
23 shall not be required to reapply <sup>2</sup>~~for~~<sup>2</sup> each school year <sup>2</sup>~~for~~  
24 enrollment in any designated school of the choice district<sup>2</sup> and shall  
25 continue to be permitted to be enrolled until graduation. A student  
26 shall be permitted to transfer back to a school of the sending district  
27 or may apply to a different choice district during the next  
28 application period.

29 f. A choice district shall accept all of the credits earned toward  
30 graduation by a student in the schools of the sending district.

31 g. A choice district shall notify a sending district upon the  
32 enrollment of a choice student resident in that district.

33  
34 8. a. (1) <sup>1</sup>~~Upon adoption of a resolution, the school board of~~  
35 a sending district may restrict enrollment of its students in a choice  
36 district to 2% of the number of students per grade level per year in  
37 the sending district, limited by any resolution adopted pursuant to  
38 paragraph (2) of this subsection.

39 (2) Upon adoption of a resolution, the school board of a sending  
40 district may restrict enrollment of its students in a choice district to  
41 7% of the total number of students enrolled in the sending district.

42 (3) <sup>1</sup>~~The school board of a sending district may adopt a~~  
43 resolution to <sup>1</sup>~~exceed the enrollment restriction percentages of~~  
44 paragraphs (1) and (2) of this subsection] restrict enrollment of its  
45 students in a choice district<sup>1</sup> to a maximum of 10% of the number  
46 of students per grade level per year limited by any resolution  
47 adopted pursuant to this paragraph and 15% of the total number of

1 students enrolled in the sending district, provided that the resolution  
2 shall be subject to approval by the commissioner upon a  
3 determination that the resolution is in the best interest of the  
4 district's students and that it will not adversely affect the district's  
5 programs, services, operations, or fiscal conditions, and that the  
6 resolution will not adversely affect or limit the diversity of the  
7 remainder of the student population in the district who do not  
8 participate in the choice program.

9 ~~'[(4)] (2)'~~ Enrollment restriction percentages adopted by any  
10 resolution pursuant to paragraph (1) ~~'[, (2), or (3)] of this~~  
11 ~~subsection'~~ shall not be compounded from year to year and shall be  
12 based upon the enrollment counts for the year preceding the sending  
13 district's initial year of participation in the choice program, except  
14 that in any year of the program in which there is an increase in  
15 enrollment, the percentage enrollment restriction may be applied to  
16 the increase and the result added to the preceding year's count of  
17 students eligible to attend a choice district. If there is a decrease in  
18 enrollment at any time during the duration of the program, the  
19 number of students eligible to attend a choice district shall be the  
20 number of students enrolled in the choice program in the initial year  
21 of the district's participation in the program, provided that a student  
22 attending a choice district school shall be entitled to remain  
23 enrolled in that school until graduation.

24 ~~'[(5)] (3)'~~ The calculation of the enrollment of a sending district  
25 shall be based on the enrollment count as reported on the  
26 Application for State School Aid in October preceding the school  
27 year during which the restriction on enrollment shall be applicable.

28 b. ~~'[The school board of a sending district may restrict~~  
29 enrollment of a student on the basis of an exceptional circumstance  
30 that would affect the sending district's instructional program upon  
31 the adoption of a resolution detailing the reasons for the restriction.  
32 The restriction shall be subject to the approval of the commissioner.

33 c. ~~]'~~ A choice district shall not be eligible to enroll students on a  
34 tuition basis pursuant to N.J.S.18A:38-3 while participating in the  
35 interdistrict public school choice program. Any student enrolled on  
36 a tuition basis prior to the establishment of the choice program shall  
37 be entitled to remain enrolled in the choice district as a choice  
38 student.

39  
40 9. ~~'a.'~~ Transportation, or aid in-lieu-of transportation, shall be  
41 provided to an elementary school pupil who lives more than two  
42 miles from the ~~'[receiving] choice'~~ district school of attendance  
43 and to a secondary school pupil who lives more than two and  
44 one-half miles from the ~~'[receiving] choice'~~ district school of  
45 attendance, provided the ~~'[receiving] choice'~~ district school is not  
46 more than 20 miles from the residence of the pupil. Transportation,

1 or aid in-lieu-of transportation, shall be the responsibility of <sup>1</sup>[such  
2 district as designated in the application submitted pursuant to  
3 section 4 of P.L. , c. (C. ) (pending before the Legislature as  
4 this bill)] the sending district. The choice district and the sending  
5 district may enter into a shared service agreement in accordance  
6 with the “Uniform Shared Services and Consolidation Act,”  
7 sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through  
8 C.40A:65-35)<sup>1</sup>.

9 <sup>1</sup>b. Notwithstanding the provisions of section 20 of P.L.2007,  
10 c.260 (C.18A:7F-62) to the contrary, the sending district shall  
11 receive State aid for transportation calculated pursuant to section 15  
12 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or  
13 receiving aid-in-lieu-of transportation pursuant to subsection a. this  
14 section.<sup>1</sup>

15  
16 10. A choice district shall establish and maintain a parent  
17 information center. The center shall collect and disseminate  
18 information about participating programs and schools and shall  
19 assist parents and guardians in submitting applications for  
20 enrollment of students in an appropriate program and school. <sup>1</sup>The  
21 information about participating programs and schools shall be  
22 posted on the choice district’s website.<sup>1</sup>

23  
24 11. The commissioner shall annually report to the State Board of  
25 Education, the Legislature, and the Joint Committee on the Public  
26 Schools on the effectiveness of the interdistrict public school choice  
27 program. <sup>1</sup>The commissioner’s annual report shall be posted on the  
28 Department of Education’s website and on the website of each  
29 choice district.<sup>1</sup>

30  
31 12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413  
32 (C.18A:36B-1 through 18A:36B-13) are repealed.

33  
34 13. This act shall take effect immediately.

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38  
39 Establishes a permanent Interdistrict Public School Choice  
40 Program.