

22-36-101. Choice of programs and schools within school districts.

(1) Except as otherwise provided in subsection (3) of this section, every school district, as defined in section [22-30-103](#) (13), shall allow:

(a) Its resident pupils who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district; and

(b) Commencing with the 1994-95 school year and thereafter, nonresident pupils from other school districts within the state who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district without requiring the nonresident pupils to pay tuition.

(2) (a) Every school district shall adopt such policies and procedures as are reasonable and necessary to implement the provisions of subsection (1) of this section, including, but not limited to, timelines for application to and acceptance in any program or school which may provide for enrollment of the student on or before October 1, and, while adopting policies and procedures, the school district shall consider adopting a policy establishing that an applicant with a proficiency rating of unsatisfactory in one or more academic areas who attends a public school that is required to implement a turnaround plan pursuant to section [22-11-406](#) or that is subject to restructuring pursuant to section [22-11-210](#) shall have priority over any other applicant for enrollment purposes.

(b) In implementing the provisions of subsection (1) of this section, no school district shall be required to:

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

(II) Establish and offer any particular program in a school if such program is not currently offered in such school;

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

(IV) Enroll any student pursuant to this section in any program or school after October 1.

(3) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools within such school district only for any of the following reasons:

(a) There is a lack of space or teaching staff within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(b) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.

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

(d) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.

(e) The student has been expelled, or is in the process of being expelled, for the reasons specified in section [22-33-106](#) (1) (c.5) or (1) (d) or the student may be denied permission to enroll pursuant to section [22-33-106](#) (3) (a), (3) (b), (3) (c), (3) (e), or (3) (f).

(4) Repealed.

(5) (a) Except as otherwise provided in paragraph (b) of this subsection (5), any pupil who enrolls in a school district other than the pupil's school district of residence pursuant to this article may remain enrolled in that school district's school or program through the end of the school year.

(b) This subsection (5) shall not apply if:

(I) The nonresident pupil is expelled pursuant to statute from the school or program described in paragraph (a) of this subsection (5);

(II) The nonresident pupil's attendance or participation in the school or program described in paragraph (a) of this subsection (5) requires the school district to perform any of the functions described in subparagraphs (I) to (III) of paragraph (b) of subsection (2) of this section; or

(III) The nonresident pupil is excluded from the school or program described in paragraph (a) of this subsection (5) for any of the reasons described in paragraphs (a) to (d) of subsection (3) of this section.

Source: **L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (4) repealed, p. 467, § 1, effective June 7; (2) and (3) amended, p. 544, § 2, effective June 8. **L. 92:** (1) amended, p. 515, § 4, effective June 1. **L. 94:** (1), (2)(a), (2)(b)(II), (2)(b)(III), IP(3), and (3)(a) amended and (2)(b)(IV) and (3)(e) added, pp. 557, 558, §§ 1, 2, effective April 6. **L. 2002:** (5) added, p. 1794, § 60, effective June 7. **L. 2003:** Entire section amended, p. 857, § 1, effective July 1. **L. 2009:** (2)(a) amended, (SB 09-163), ch. 293, p. 1544, § 48, effective May 21.

ANNOTATION

No violation of subsection (3)(a) where disabled student was not allowed to continue in her previous program until she moved back into the school district. Limiting the number of nonresident students requesting special education does not constitute an illegal quota. The school district's obligation is limited by the district's resources and the district's primary obligation to provide services to residents. *Bradshaw v. Cherry Creek Sch. Dist. No. 5*, 98 P.3d 886 (Colo. App. 2003).

[22-36-102. Interdistrict schools of choice pilot program - repeal. \(Repealed\)](#)

Source: **L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (3) repealed, p. 467, § 2, effective June 7. **L. 92:** (1) amended, p. 516, § 5, effective June 1.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1089.)

22-36-103. Eligibility of school districts for participation in interdistrict schools of choice pilot program - repeal. (Repealed)

Source: L. 90: Entire article added, p. 1090, § 59, effective May 31.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

22-36-104. Interdistrict schools of choice pilot program grants - repeal. (Repealed)

Source: L. 90: Entire article added, p. 1090, § 59, effective May 31.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

22-36-105. Schools of choice fund - creation - purpose - repeal. (Repealed)

Source: L. 90: Entire article added, p. 1090, § 59, effective May 31. **L. 94:** (1) amended, p. 814, § 32, effective April 27. **L. 98:** Entire section amended, p. 972, § 16, effective May 27.

Editor's note: Subsection (4) provided for the repeal of this section effective August 1, 1998. (See L. 98, p. 972.)

22-36-106. Department - distribution of information - study - report.

(1) The department shall make information available to the public about the enrollment options which are available throughout the public school system in Colorado.

(2) (a) The department of education shall study and evaluate the enrollment options available throughout the public school system in Colorado. The department is authorized to request from any school district such information and data as may be necessary to make such reports.

(b) Based upon such evaluation and study, the department of education shall make a report to the education committees of the senate and the house of representatives, or any successor committees, in each January.

Source: L. 90: Entire article added, p. 1091, § 59, effective May 31. **L. 96:** (2)(b) amended, p. 1239, § 90, effective August 7. **L. 2006:** (2)(b) amended, p. 608, § 27, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.