

Amendment to HB 388

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 School Attendance; Change of School or Assignment; Best Interest of Student. Amend RSA  
4 193:3 to read as follows:

5 193:3 Change of School or Assignment; Best Interest of Student.

6 I.(a) The parent or guardian of a student may apply to the superintendent of the student's  
7 district of residence if the parent or guardian believes it would be in the best interest of the student  
8 to change the student's school or assignment.

9 (b) Upon such request, the superintendent shall schedule a meeting with the parent or  
10 guardian, to be held within 10 days of the request.

11 (c) Prior to or at such meeting, the parent or guardian shall make a specific request that  
12 the student be re-assigned by the school board to another public school, ~~[or]~~ public academy, **or an**  
13 **approved private school** within the district or to a public school, ~~[or]~~ public academy, **or an**  
14 **approved private school** in another district.

15 (d) At such meeting, the parent or guardian may present documents, witnesses, or other  
16 relevant evidence supporting the parent's belief that it is in the best interest of the student to change  
17 the student's school or assignment. The superintendent may present such information as he or she  
18 deems appropriate.

19 (e) In determining whether it is in the best interest of the student to change the  
20 student's school or assignment, the superintendent shall consider the student's academic, physical,  
21 personal, or social needs.

22 (f) If the superintendent finds it is in the best of the interest of the student to change the  
23 student's school or assignment, the superintendent shall initiate:

24 (1) A change of assignment within the student's current assigned school;

25 (2) The student's transfer to another public school or public academy within the  
26 district of residence; or

27 (3) The student's transfer to a public school, ~~[or]~~ public academy, **or an approved**  
28 **private school** in another district.

29 (g) If a student is reassigned as a result of a best interest determination **to a public**  
30 **school or public academy**, the superintendents **or administrators** involved in the reassignment  
31 shall jointly establish a tuition rate for such student. Some or all of the tuition may be waived by the  
32 superintendent of the receiving district for good cause shown or pursuant to school board policy of

1 the receiving district. The school board of the student's district of residence shall approve the  
2 payment of tuition upon the superintendent's finding that is in the best interest of the student to be  
3 reassigned. Transportation shall be the responsibility of the parent or legal guardian.

4 (h) ***If the student is reassigned as the result of a best interest determination to***  
5 ***an approved private school, the private school may charge tuition to the parent or may***  
6 ***enter into an agreement for payment of tuition with the school district in which the child***  
7 ***resides.***

8 (i) If the superintendent does not find that it is in the best interest of the student to  
9 change the student's school or assignment, the parent or guardian may request a hearing with the  
10 school board of residence to determine if the student is experiencing a manifest educational hardship  
11 under paragraph II.

12 II.(a) "Manifest educational hardship" means that a student has a documented hardship in  
13 his or her current educational placement; and that such hardship has a detrimental or negative  
14 impact on the student's academic achievement or growth, physical safety, or social and emotional  
15 well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits  
16 the ability of the student to receive an education.

17 (b) The superintendent shall duly notify the school board that the parent or guardian  
18 has requested a manifest educational hardship hearing, upon which the school board shall schedule  
19 a hearing to be held no more than 15 days after the request has been received.

20 (c) At such hearing, the parent or guardian may present documents, witnesses, or other  
21 relevant evidence supporting their belief that the student is experiencing a manifest educational  
22 hardship. The superintendent may present such information as he or she may deem appropriate to  
23 assist the school board in reaching its decision. The parties shall have the right to examine all  
24 evidence and witnesses.

25 (d) Prior to or at such hearing, the parent or guardian shall make a specific request that  
26 the student be re-assigned by the school board to another public school, ~~[or]~~ public academy, ***or an***  
27 ***approved private school*** within the district or to a public school, ~~[or]~~ public academy ***or an***  
28 ***approved private school*** in another district.

29 (e) The parent or guardian shall have the burden of establishing the presence of a  
30 manifest educational hardship by clear and convincing evidence.

31 (f) If the school board finds that the student has a manifest educational hardship, the  
32 school board shall grant the parent's or guardian's request to re-assign the student to another public  
33 school, ~~[or]~~ public academy ***or an approved private school*** within the district or to a public school,  
34 ~~[or]~~ public academy, ***or an approved private school*** in another district.

35 (g) If the school board finds that the parent or guardian has not met their burden of  
36 proof, the parent or guardian may appeal the local school board decision to the state board of  
37 education. If the state board of education chooses to accept the parent's or guardian's appeal, the

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1 state board of education shall schedule hearing on the matter, pursuant to applicable department of  
2 education rules.

3 (h) If a student is assigned to attend *a public school or public academy* in another  
4 district because of a manifest educational hardship, the district in which the student resides shall  
5 pay tuition to the district to which the child is re-assigned. Such tuition shall be computed according  
6 to RSA 193:4. The school board of the district in which the student resides shall approve the tuition  
7 payment.

8 III. The state board of education may permit such child to withdraw from the school the  
9 student currently attends for such time as the state board deems necessary. Children with  
10 disabilities as defined in RSA 186-C:2 shall be accorded a due process review pursuant to rules  
11 adopted under RSA 186-C:16.

12 III-a.(a) A student reassigned under this section shall be counted in the average daily  
13 membership in residence of the student's resident school district. The student's resident district  
14 shall forward any tuition payment due to the district to which the student was reassigned.

15 (b) The superintendent of the student's resident school administrative unit shall notify  
16 the department of education within 30 days of any reassignment of students under this section.

17 (c) Nothing in this section shall alter or impair the right of a child with a disability, as  
18 defined in RSA 186-C:2, to be accorded a due process review pursuant to rules adopted under RSA  
19 186-C:16.

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

24 (e) The state board of education shall adopt rules, pursuant to RSA 541-A, relative to  
25 manifest educational hardship. Each school board shall establish a policy, consistent with the state  
26 board's rules, which shall allow a school board, with the recommendation of the superintendent, to  
27 take appropriate action including assignment to another public school or public academy within the  
28 district or to a public school or public academy in another district.

29 (f) Students re-assigned under this section shall meet the admission requirements of the  
30 school to which the student is re-assigned.

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

36 (b) When a child is enrolled pursuant to subparagraph (a), the district in which the child  
37 is enrolled shall immediately notify the district in which the child resides of the name, date of birth,

1 address, and grade assignment of the child. This same notification shall be made at the beginning of  
2 each school year for which the child is enrolled.

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

6 (d) The decision by a school district or a public academy to deny enrollment of a non-  
7 resident pupil shall not be based, in whole or in part, on whether such pupil is a child with a  
8 disability as defined in RSA 186-C:2, I, or a child that requires an accommodation under the  
9 Rehabilitation Act of 1973, as amended. ***If a parent or guardian believes the denial was based***  
10 ***upon the child's disability, such parent may appeal the decision to the state board of***  
11 ***education consistent with the provisions of RSA 21-N:11, III or file a complaint with the***  
12 ***state commission for human rights under RSA 354-A:28. The decision of a parent to enroll***  
13 ***a child in a chartered public school shall not be subject to the provisions of this section.***

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

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

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

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

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

1 performance standards for determining an adequate education. A private school that receives  
2 tuition program students shall:

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

5 (b) Be a ~~nonsectarian~~ school ***approved and contracted by a local public school***  
6 ***board to provide students with the opportunity for an adequate education;***

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

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

20 ***VIII. If the student is assigned to an approved private school under the manifest***  
21 ***educational hardship determination and the private school agrees to enroll the child, it***  
22 ***may charge tuition to the parent or may enter into an agreement for payment of tuition***  
23 ***with the school district in which the child resides.***

24 2 Effective Date. This act shall take effect 60 days after its passage.