



House of Representatives

General Assembly

File No. 154

January Session, 2019

House Bill No. 7313

House of Representatives, March 26, 2019

The Committee on Education reported through REP. SANCHEZ of the 25th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING HOMELESS STUDENTS' ACCESS TO EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-186 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) Each local or regional board of education shall furnish, by
4 transportation or otherwise, school accommodations so that each child
5 five years of age and over and under twenty-one years of age who is
6 not a graduate of a high school or technical education and career
7 school may attend public school, except as provided in section 10-233c
8 and subsection (d) of section 10-233d. Any board of education which
9 denies school accommodations, including a denial based on an issue of
10 residency, to any such child shall inform the parent or guardian of
11 such child or the child, in the case of an emancipated minor, [or] a
12 pupil eighteen years of age or older or an unaccompanied youth, as
13 described in 42 USC 11434a, as amended from time to time, of his or
14 her right to request a hearing by the board of education in accordance

15 with the provisions of subdivision (1) of subsection (b) of this section.
16 A board of education which has denied school accommodations shall
17 advise the board of education under whose jurisdiction it claims such
18 child should be attending school of the denial. For purposes of this
19 section, (1) a "parent or guardian" shall include a surrogate parent
20 appointed pursuant to section 10-94g, and (2) a child residing in a
21 dwelling located in more than one town in this state shall be
22 considered a resident of each town in which the dwelling is located
23 and may attend school in any one of such towns. For purposes of this
24 subsection, "dwelling" means a single, two or three-family house or a
25 condominium unit.

26 (b) (1) If any board of education denies such accommodations, the
27 parent or guardian of any child who is denied schooling, or an
28 emancipated minor, [or] a pupil eighteen years of age or older or an
29 unaccompanied youth who is denied schooling, or an agent or officer
30 charged with the enforcement of the laws concerning attendance at
31 school, may, in writing, request a hearing by the board of education.
32 The board of education may (A) conduct the hearing, (B) designate a
33 subcommittee of the board composed of three board members to
34 conduct the hearing, or (C) establish a local impartial hearing board of
35 one or more persons not members of the board of education to conduct
36 the hearing. The board, subcommittee or local impartial hearing board
37 shall give such person a hearing [within] not later than ten days after
38 receipt of the written request, make a stenographic record or tape
39 recording of the hearing and make a finding [within] not later than
40 days after the hearing. Hearings shall be conducted in accordance with
41 the provisions of sections 4-176e to 4-180a, inclusive, and section 4-
42 181a. Any child, emancipated minor, [or] pupil eighteen years of age
43 or older or unaccompanied youth who is denied accommodations on
44 the basis of residency may continue in attendance in the school district
45 at the request of the parent or guardian of such child or emancipated
46 minor, [or] pupil eighteen years of age or older or unaccompanied
47 youth, pending a hearing pursuant to this subdivision. The party
48 claiming ineligibility for school accommodations shall have the burden
49 of proving such ineligibility by a preponderance of the evidence,

50 except in cases of denial of schooling based on residency, the party
51 denied schooling shall have the burden of proving residency by a
52 preponderance of the evidence, unless the party denied schooling is
53 claiming that he or she is a homeless child or youth, as defined in 42
54 USC 11434a, as amended from time to time, in which case, the party
55 claiming ineligibility based on residency shall have the burden of
56 proving that the party denied schooling is not a homeless child or
57 youth by a preponderance of the evidence in accordance with the
58 provisions of 42 USC 11431, et seq., as amended from time to time.

59 (2) Any homeless child or youth who is denied accommodations by
60 a board of education as the result of a determination by such board, or
61 a subcommittee of the board or local impartial hearing board, that the
62 child is not entitled to school accommodations in the district, shall
63 continue in attendance or be immediately enrolled in the school
64 selected by the child in the school district pursuant to 42 USC
65 11432(g)(3), as amended from time to time. The board of education for
66 such school district shall (A) provide, in accordance with the
67 provisions of 42 USC 11432(g)(3)(E)(ii), as amended from time to time,
68 the homeless child or youth or the parent or guardian of such homeless
69 child or youth with (i) a written explanation of the reasons for the
70 denial of accommodations that is in a manner and form
71 understandable to such homeless child or youth or parent or guardian,
72 and (ii) information regarding the right to appeal the decision of the
73 denial of accommodations pursuant to subdivision (3) of this
74 subsection, and (B) refer, in accordance with the provisions of 42 USC
75 11432(g)(3)(E)(iii), as amended from time to time, the homeless child or
76 youth or the parent or guardian of such homeless child or youth to the
77 liaison, designated pursuant to 42 USC 11432(g)(1)(J)(ii), as amended
78 from time to time, who is responsible for carrying out the duties
79 described in 42 USC 11432(g)(6)(A), as amended from time to time.

80 [(2)] (3) Any such parent, guardian, emancipated minor, pupil
81 eighteen years of age or older, unaccompanied youth, or agent or
82 officer, aggrieved by the finding shall, upon request, be provided with
83 a transcript of the hearing within thirty days after such request and

84 may take an appeal from the finding to the State Board of Education. A
85 copy of each notice of appeal shall be filed simultaneously with the
86 local or regional board of education and the State Board of Education.
87 Any child, emancipated minor or pupil eighteen years of age or older
88 or unaccompanied youth who is denied accommodations by a board of
89 education as the result of a determination by such board, or a
90 subcommittee of the board or local impartial hearing board, that the
91 child is not a resident of the school district and therefore is not entitled
92 to school accommodations in the district may continue in attendance in
93 the school district at the request of the parent or guardian of such child
94 or such minor or pupil, pending a determination of such appeal,
95 except any homeless child or youth shall be entitled to continue in
96 attendance in the school district during all available appeals pursuant
97 to 42 USC 11432(g)(2)(E). If an appeal is not taken to the State Board of
98 Education within twenty days of the mailing of the finding to the
99 aggrieved party, the decision of the board, subcommittee or local
100 impartial hearing board shall be final. The local or regional board of
101 education shall, within ten days after receipt of notice of an appeal,
102 forward the record of the hearing to the State Board of Education. The
103 State Board of Education shall, on receipt of a written request for a
104 hearing made in accordance with the provisions of this subsection,
105 establish an impartial hearing board of one or more persons to hold a
106 public hearing in the local or regional school district in which the cause
107 of the complaint arises. Members of the hearing board may be
108 employees of the Department of Education or may be qualified
109 persons from outside the department. No member of the board of
110 education under review nor any employee of such board of education
111 shall be a member of the hearing board. Members of the hearing board,
112 other than those employed by the Department of Education, shall be
113 paid reasonable fees and expenses as established by the State Board of
114 Education within the limits of available appropriations. Such hearing
115 board may examine witnesses and shall maintain a verbatim record of
116 all formal sessions of the hearing. Either party to the hearing may
117 request that the hearing board join all interested parties to the hearing,
118 or the hearing board may join any interested party on its own motion.

119 The hearing board shall have no authority to make a determination of
120 the rights and responsibilities of a board of education if such board is
121 not a party to the hearing. The hearing board may render a
122 determination of actual residence of any child, emancipated minor,
123 [or] pupil eighteen years of age or older or unaccompanied youth
124 where residency is at issue.

125 [(3)] (4) The hearing board shall render its decision within forty-five
126 days after receipt of the notice of appeal except that an extension may
127 be granted by the Commissioner of Education upon an application by
128 a party or the hearing board describing circumstances related to the
129 hearing which require an extension.

130 [(4)] (5) If, after the hearing, the hearing board finds that any child is
131 illegally or unreasonably denied schooling, the hearing board shall
132 order the board of education under whose jurisdiction it has been
133 found such child should be attending school to make arrangements to
134 enable the child to attend public school. Except in the case of a
135 residency determination, the finding of the local or regional board of
136 education, subcommittee of such board or a local impartial hearing
137 board shall be upheld unless it is determined by the hearing board that
138 the finding was arbitrary, capricious or unreasonable. If such school
139 officers fail to take action upon such order in any case in which such
140 child is currently denied schooling and no suitable provision is made
141 for such child within fifteen days after receipt of the order and in all
142 other cases, within thirty days after receipt of the order, there shall be a
143 forfeiture of the money appropriated by the state for the support of
144 schools amounting to fifty dollars for each child for each day such
145 child is denied schooling. If the hearing board makes a determination
146 that the child was not a resident of the school district and therefore not
147 entitled to school accommodations from such district, the board of
148 education may assess tuition against the parent or guardian of the
149 child or the emancipated minor or pupil eighteen years of age or older
150 based on the following: One one-hundred-eightieth of the town's net
151 current local educational expenditure, as defined in section 10-261, per
152 pupil multiplied by the number of days of school attendance of the

153 child in the district while not entitled to school accommodations
154 provided by that district. The local board of education may seek to
155 recover the amount of the assessment through available civil remedies.

156 (c) In the event of an appeal pursuant to section 10-187 from a
157 decision of a hearing board established pursuant to subsection (b) of
158 this section, upon request, the State Board of Education shall supply
159 for the fee per page specified in section 1-212, a copy of the transcript
160 of the formal sessions of the hearing board to the parent or guardian or
161 emancipated minor or a pupil eighteen years of age or older or
162 unaccompanied youth and to the local or regional board of education.

163 (d) (1) For the school year commencing July 1, 2010, if a child sixteen
164 years of age or older voluntarily terminates enrollment in a school
165 district and subsequently seeks readmission, the local or regional
166 board of education for the school district may deny school
167 accommodations to such child for up to ninety school days from the
168 date of such termination, unless such child seeks readmission to such
169 school district not later than ten school days after such termination in
170 which case such board shall provide school accommodations to such
171 child not later than three school days after such child seeks
172 readmission.

173 (2) For the school year commencing July 1, 2011, and each school
174 year thereafter, if a child seventeen years of age or older voluntarily
175 terminates enrollment in a school district and subsequently seeks
176 readmission, the local or regional board of education for the school
177 district may deny school accommodations to such child for up to
178 ninety school days from the date of such termination, unless such child
179 seeks readmission to such school district not later than ten school days
180 after such termination in which case such board shall provide school
181 accommodations to such child not later than three school days after
182 such child seeks readmission.

183 (e) A local or regional board of education shall immediately enroll
184 any student who transfers from Unified School District #1 or Unified
185 School District #2. In the case of a student who transfers from Unified

186 School District #1 or Unified School District #2 to the school district in
 187 which such student attended school prior to enrollment in Unified
 188 School District #1 or Unified School District #2, such student shall be
 189 enrolled in the school such student previously attended, provided such
 190 school has the appropriate grade level for such student.

191 Sec. 2. Subsection (f) of section 10-253 of the general statutes is
 192 repealed and the following is substituted in lieu thereof (*Effective July*
 193 *1, 2019*):

194 (f) Notwithstanding any provision of the general statutes,
 195 educational services shall be provided by each local and regional
 196 board of education to homeless children and youths in accordance
 197 with the provisions of 42 USC 11431, et seq., as amended from time to
 198 time. If a homeless child or youth is denied school accommodations by
 199 a local or regional board of education on the basis of residency, such
 200 homeless child or youth shall be entitled to a hearing conducted
 201 pursuant to section 10-186, as amended by this act. An unaccompanied
 202 youth, as described in 42 USC 11434a, as amended from time to time,
 203 shall be entitled to knowledge of and have access to all educational,
 204 medical or similar records in the cumulative record of such
 205 unaccompanied youth maintained by a local or regional board of
 206 education.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	10-186
Sec. 2	<i>July 1, 2019</i>	10-253(f)

ED *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which codifies state statute with federal law, regarding the procedures surrounding homeless students, does not result in a fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 7313*****AN ACT CONCERNING HOMELESS STUDENTS' ACCESS TO EDUCATION.*****SUMMARY**

Existing law establishes an appeals process when students are denied access to school accommodations, including transportation, to attend a local or regional public school.

This bill:

1. adds unaccompanied youth to existing law's appeals process, generally requiring boards of education to notify students of hearings and decisions;
2. modifies the burden of proof in cases where the child is claiming to be homeless; and
3. establishes additional steps that boards must take in the case of a homeless child.

The bill uses the definition of "unaccompanied youth" from federal law, which includes a homeless child or youth not in the physical custody of a parent or guardian (42 USC § 11434a).

As with the existing law regarding cases of questioned residency and school accommodation for other types of students, the bill specifically permits unaccompanied and homeless youth to continue attending or be allowed to enroll in the school of their choice while the appeals process takes place.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2019

PUBLIC SCHOOL ACCOMMODATION

Under the state's existing school accommodation law, a school district must provide school accommodation, including transportation, so that each child age five and over and under 21 years old who is not a graduate may attend public school. And any board of education that denies school accommodation, including based on the student not being a school district resident, must inform the child's parents or guardian of their right to a hearing. In the case of an emancipated minor or a student who is 18 years old or older, the board must notify the student.

The bill adds to this requirement that in the case of an unaccompanied youth the board must notify the youth. The bill also incorporates unaccompanied youths into the appeals process, and specifically requires them to receive appeals notices, and hearing and formal session transcripts upon request.

BURDEN OF PROOF

Under current law, in cases where access to school is denied based on residency, the party denied schooling has the burden of proving residency in the school district where he or she was denied by a preponderance of evidence. Under the bill, if the student claims that he or she is homeless, then the party claiming ineligibility has the burden of proving, also by a preponderance of the evidence, that the student denied schooling is not a homeless in accordance with the federal law (see BACKGROUND).

ADDITIONAL REQUIREMENTS

The bill adds specific requirements that a board of education must follow if a homeless child or youth is denied accommodation by the board, a subcommittee, or an impartial hearing board (boards of education are allowed to use any of those three mechanisms to determine accommodation cases). The bill requires the board to provide the homeless child or youth, or his or her parent or guardian, with (1) a written explanation of the reasons for the denial that is in a manner and form understandable to them and (2) information

regarding the right to appeal the decision.

The board must also refer the child or parents or guardian to the homeless student liaison that each district must designate as required by federal law.

The above requirements are also required by federal law.

BACKGROUND

McKinney–Vento Homeless Assistance Act

Under federal law, each state must ensure that each homeless child and homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children. States must also take steps to ensure that their laws regarding school district residency do not create obstacles for homeless students to attend school (42 USC 11431 et. seq.).

COMMITTEE ACTION

Education Committee

Joint Favorable

Yea 34 Nay 0 (03/15/2019)