



509 ENROLLMENT OF NONRESIDENT STUDENTS

I. PURPOSE

The school district desires to participate in the Enrollment Options Program established by Minn. Stat. § 124D.03. It is the purpose of this policy to set forth the application and exclusion procedures used by the school district in making said determination.

II. GENERAL STATEMENT OF POLICY

The school board adopts specific standards for acceptance and rejection of Open Enrollment applications.

III. OPEN ENROLLMENT PROCESS

A. Eligibility. Applications for enrollment under the Enrollment Options (Open Enrollment) Law will be approved provided that acceptance of the application will not exceed the capacity of a program, class, grade level, or school building as established by School Board resolution and provided that:

- a. in considering the capacity of a grade level, the school district may only limit the enrollment of nonresident students to a number not less than the lesser of:
 - i. one (1) to three (3) percent of the total enrollment at each grade level in the school district; and
 - ii. the number of school district resident students at that grade level enrolled in a nonresident school district in accordance with Minn. Stat. § 124D.03. based upon capacity and program considerations.
 - iii. the applicant is not otherwise excluded by action of the school district because of previous conduct in another school district.

B. If the school district limits enrollment of nonresident students pursuant to this section, the district will report to the Commissioner of the Minnesota Department of Education (MDE) by July 15 on the number of nonresident pupils denied admission due to the limitations on the enrollment of nonresident pupils.

C. The parent of a student with a disability not yet enrolled in kindergarten and not open enrolled in a nonresident district may elect, in the same manner as the parent of a resident student with a disability, a school in the nonresident district where the child is enrolled in a Head Start program or a licensed child care setting in the nonresident district, provided the child can be served in the same setting as other children in the

nonresident district with the same level of disability.

Under this paragraph, parents must demonstrate enrollment in a community preschool or childcare setting.

- D. A nonresident preschool aged child with a disability open enrolled in the district may be required to open enroll for kindergarten.

IV. BASIS FOR DECISIONS

A. Standards that may be used for rejection of application.

In addition to the provisions of Paragraph II.A., the school district may refuse to allow a student who is expelled under Section 121A.45 to enroll during the term of the expulsion if the student was expelled for:

1. possessing a dangerous weapon, including a weapon, device, instruments, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade less than two and one-half inches in length, at school or a school function;
2. possessing or using an illegal drug at school or a school function;
3. selling or soliciting the sale of a controlled substance while at school or a school function; or
4. committing a third-degree assault involving assaulting another and inflicting substantial bodily harm.

B. Standards that may not be used for rejection of application.

The school district may not use the following standards in determining whether to accept or reject an application for open enrollment.

1. previous academic achievement of a student;
2. athletic or extracurricular ability of a student;
3. disabling conditions of a student;
4. a student's proficiency in the English language;
5. the student's district of residence; or
6. previous disciplinary proceedings involving the student. This shall not preclude the school district from proceeding with exclusion as set out in this policy.

C. Application

The student and parent or guardian must complete and submit a School District Enrollment Options Program application developed by the Minnesota Department of Education and available on their website (education.mn.gov). Go to "Students and Families," then, under

~~“School Choice,” select “Open Enrollment.” The form is entitled, “General Statewide Enrollment Options Application for K-12 and Early Childhood Special Education.”~~

The school district may require a nonresident student enrolled in a program under Minnesota Statutes, section 125A.13, or in a preschool program, except for a program under Minnesota Statutes, section 124D.151 to follow the application procedures under this subdivision to enroll in kindergarten. A district must allow a nonresident student enrolled in a program under Minnesota Statutes, section 124D.151 to remain enrolled in the district when the student enters kindergarten without submitting annual or periodic applications, unless the district terminates the student's enrollment under subdivision 12.

The school district shall notify the parent or guardian in writing by February 15 or within ninety (90) days for applications submitted after January 15 in the case of achievement and integration district transfers whether the application has been accepted or rejected. If an application is rejected, the district must state in the notification the reason for rejection. The parent or guardian must notify the nonresident district by March 1 or within ten (10) business days whether the pupil intends to enroll in the nonresident district.

D. Lotteries

If a school district has more applications than available seats at a specific grade level, it must hold an impartial lottery following the January 15 deadline to determine which students will receive seats. The district must give priority to siblings of currently enrolled students applications related to an approved integration and achievement plan and children of school district staff. The process for the school district lottery must be established by school board policy and posted on the school district's website.

E. Exclusion

a. Administrator's initial determination.

If a school district administrator knows or has reason to believe that an applicant has engaged in conduct that has subjected or could subject the applicant to expulsion or exclusion under law or school district policy, the administrator will transmit the application to the Superintendent/designee with a recommendation of whether exclusion proceedings should be initiated.

b. Superintendent/designee's review.

The Superintendent/designee may make further inquiries. If the Superintendent/designee determines that the applicant should be admitted, he or she will notify the applicant and the School Board Chair. If the Superintendent/designee determines that the applicant should be excluded, the Superintendent/designee will notify the applicant and determine whether the applicant wishes to continue the application process. Although an application may not be rejected based on previous disciplinary proceedings, the school district reserves the right to initiate exclusion procedures pursuant to the Minnesota Pupil Fair Dismissal Act as warranted on a case-by-case basis.

F. Termination of Enrollment

- a. The school district may terminate the enrollment of a nonresident student enrolled under an enrollment options program pursuant to Minn. Stat. §124D.03 or 124D.08 at the end of a school year if the student meets the definition of a habitual truant, the student has been provided appropriate services for truancy under Minn. Ch. 260A, and the student's case has been referred to juvenile court. A "habitual truant" is a child under ~~seventeen~~ ~~sixteen~~ (17) years of age who is absent from attendance at school without lawful excuse for seven (7) school days if the child is in elementary school or for one (1) or more class periods on seven (7) school days if the child is in middle school, junior high school or high school, or a child who is ~~sixteen (16) or~~ seventeen (17) years of age who is absent from attendance at school without lawful excuse for one (1) or more class periods on seven (7) school days and who has not lawfully withdrawn from school under Minn. Stat. §120A.22, Subd. 8.
- b. the school district may also terminate the enrollment of a nonresident student over seventeen (17) years of age if the student is absent without lawful excuse for one (1) or more periods on fifteen (15) school days and has not lawfully withdrawn from school under Minn. Stat. §120A.22, Subd. 8.
- c. A student who has not applied for and been accepted for open enrollment pursuant to this policy and does not otherwise meet the residency requirements for enrollment may be terminated from enrollment and removed from school. Prior to removal from school, the school district will send to the student's parent/guardian a written notice of the school district's belief that the student is not a resident of the school district. The notice shall include the facts upon which the belief is based and notice to the parents of their opportunity to provide documentary evidence, in person or in writing, of residency to the Superintendent/designee. The Superintendent/designee will make the final determination as to the residency status of the student.
- d. Notwithstanding the requirement that an application must be approved by the board of the nonresident district, a student who has been enrolled in a district, who is identified as homeless, and whose parent or legal guardian moves to another district, or who is placed in foster care in another school district, may continue to enroll in the nonresident district without the approval of the board of the nonresident district. The approval of the board of the student's resident district is not required.

Legal References:

Minn. Stat. §120A.22, Subd. 3(e) and Subd. 8 (Compulsory Instruction)
Minn. Stat. §121A.40-121A.56 (The Pupil Fair Dismissal Act)
Minn. Stat. §124D.03 (Enrollment Options Program)
Minn. Stat. §124D.08 (School Board Approval to Enroll in Nonresident District)
Minn. Stat. § 124D.151 (Voluntary Prekindergarten Program)
Minn. Stat. §124D.68 (High School Graduation Incentives Program)
Minn. Stat. § 125A.13 (School of Parents' Choice)
Minn. Ch. 260A (Truancy)
Minn. Stat. §260C.007, Subd. 19 (Definitions)

MSBA/Legal Updates

Op. Minn. Atty. Gen. No. 169-f (August 13, 1986)
Indep. Sch. Dist. No. 623 v. Minn. Dept. of Educ., Co. No. A05-361, 2005
WL3111963 (Minn. App. 2005) (unpublished)
18 U.S.C. 930, para. (g)(2) (Definition of weapon)

Cross References: MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 517 (Student Recruiting)

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