509 ENROLLMENT OF NONRESIDENT STUDENTS

I. PURPOSE

The school district desires to participate in the Enrollment Options Program (Open Enrollment) established by Minnesota Statutes, section 124D.03. The purpose of this policy is 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. Open Enrollment applications will be approved provided that acceptance of the application will not exceed the capacity of a program, excluding special education services; class; or school building as established by school board resolution and provided that:

1. Space is available for the applicant under enrollment cap standards established by school board policy or other directive; and

2. In considering the capacity of a grade level, the school district may limit the enrollment of nonresident students in its schools or programs to a number not less than the lesser of:

   a. one (1) percent of the total enrollment at each grade level in the school district; or

   b. the number of school district resident students at that grade level enrolled in a nonresident school district according to Minnesota Statutes, section 124D.03.

3. 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 Paragraph A., the school district shall 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 that 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 in a nonresident district.

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 above, the school district may refuse to allow a pupil who is expelled under Minnesota Statutes, 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, instrument, 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 pocketknife 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 as described in Minnesota Statutes, section 609.223, subdivision 1.

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. the student's previous academic achievement;

2. the student's athletic or extracurricular ability;

3. the student's disabling conditions;

4. the student's proficiency in the English language;

5. The student's district of residence, except where the district of residence is directly included in an enrollment options strategy included in an approved achievement and integration program; 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 parent or guardian must complete and submit the "General Statewide Enrollment Options" application for K-12 and Early Childhood Special Education (or the Statewide Enrollment Options Application for State-Funded Voluntary Prekindergarten (VPK) Application if applicable) developed by the Minnesota Department of Education (MDE) and available on its website. The signed application must be submitted by January 15 for initial enrollment beginning the following school year.

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 142D.08 to follow the application procedures under Minnesota Statutes, section 124D.03, subdivision 3 to enroll in kindergarten. A school district must allow a nonresident student enrolled in a program under Minnesota Statutes, section 142D.08 to remain enrolled in the school district when the student enters kindergarten without submitting annual or periodic applications, unless the district terminates the student's enrollment under Minnesota Statutes, section 124D.03, 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 school 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. Open Enrollment Placement/Lotteries

1. The district will use a lottery in placing students, following the priorities noted below:

   a. Priority One: Currently Enrolled Students

Nonresident students already enrolled before January 15 of each year will be given a Priority One for continuance at the school at which they are currently enrolled.

b. Priority Two: Siblings – Intra-District Transfer Requests

Resident students, who are already enrolled, with a sibling currently participating in an intra-district transfer, may request a transfer to that same site. The request must be written and submitted to the superintendent/designee by January 15 for consideration.

c. Priority Three: Intra-District Transfer Requests

Resident students, who are already enrolled, may request a transfer to another site. The request must be written and submitted to the superintendent/designee by January 15 for consideration.

d. Priority Four: Staff Siblings – Nonresident Students

Children of district employees, with current open enrolled siblings, will be given priority if the parent/guardian has submitted a request for admission to the district by January 15.

e. Priority Five: Siblings – Nonresident Students

Siblings of current open enrolled students will be given priority if their request for admission has been submitted to the district by January 15.

f. Priority Six: Staff Requests – Nonresident Students

Children of district employees, who are residents of other districts, will be given priority if the parent/guardian has submitted a request for admission to the district by January 15.

g. Priority Seven: Open Enrollment – Nonresident Students

Nonresident students who have submitted their requests for admission to the district by January 15.

h. Priority Eight: Intra-District Transfer Request and Enrollment Options – Nonresident Students

After January 15, all requests for Intra-District Transfer and Open

Enrollment Options will be considered on a first-come, first-served basis, dependent upon classroom capacity.

E. Exclusion

1. 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 with a recommendation of whether exclusion proceedings should be initiated.

2. Superintendent's review

The superintendent may make further inquiries. If the superintendent determines that the applicant should be admitted, he or she will notify the applicant and the school board chair. If the superintendent determines that the applicant should be excluded, the superintendent 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.

E. Termination of Enrollment

The school district may terminate the enrollment of a nonresident student enrolled under an enrollment options program pursuant to Minnesota Statutes, section 124D.03 or 124D.08 at the end of a school year if the student meets the definition of a habitual truant under Minnesota Statutes, section 260C.007, subdivision 9, the student has been provided appropriate services for truancy under Minnesota Statutes, chapter 260A and the student's case has been referred to juvenile court.

A "habitual truant" is a child who is at least twelve (12) years old and less than eighteen (18) years old who is absent from attendance at school without lawful excuse for one (1) or more class periods on seven (7) school days in a school year if the child is in middle school, junior high school or high school, or a child who is 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 in a school year and who has not lawfully withdrawn from school. Pursuant to Minnesota Statutes, section 260C.163, subdivision 11, "habitual truant" also means a child under age twelve (12) who has been absent from school for seven (7) school days without lawful excuse, based on a showing by clear and

convincing evidence that the child's absence is not due to the failure of the child's parent, guardian or custodian to comply with compulsory instruction laws.

The school district may also terminate the enrollment of a nonresident student over 17 years of age if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under Minnesota Statutes, section 120A.22, subdivision 8.

A student who has not applied for and been accepted for open enrollment pursuant to this policy and if the school district reasonably believes that a student does not otherwise meet the residency requirements of the school district in which the student is attending school, the student may be removed from school only after the school district sends the student's parents written notice of the school district's belief including the facts upon which the belief is based and an opportunity to provide documentary evidence in person to the superintendent or the superintendent's designee, or, at the option of the parents, by sending the documentary evidence to the superintendent, or a designee, who will make a final determination as to the residency status of the student.

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 (Pupil Fair Dismissal Act)
Minn. Stat. § 124D.03 (Enrollment Options Program)
Minn. Stat. § 124D.08 (School Board Approval to Enroll in Nonresident District; Exceptions)
Minn. Stat. § 124D.151 (Voluntary Prekindergarten Program)
Minn. Stat. § 124D.68 (Graduation Incentives Program)
Minn. Stat. § 125A.13 (School of Parents' Choice)
Minn. Stat. § 142D.08 (Voluntary Prekindergarten Program for Eligible Four-Year-Old Children)
Minn. Ch. 260A (Truancy)
Minn. Stat. § 260C.007, Subd. 19 (Definitions)
Minn. Stat. § 260C.163, Subd. 11 (Hearing)
Minn. Stat. § 609.223, Subd. 1 (Assault in the Third Degree)
Minn. Op. Atty. Gen. 169-f (Aug. 13, 1986)
Indep. Sch. Dist. No. 623 v. Minn. Dept. of Educ., Co. No. A05-361, 2005 WL3111963 (Minn. Ct. App. 2005) (unpublished)
18 U.S.C. 930, para. (g)(2) (Definition of weapon)

Cross References:
Policy 506 (Districtwide Student Discipline)
Policy 517 (Student Recruiting)

Resources:
Minnesota Department of Education: Open Enrollment

Policy Adopted: 4/18/05
Policy Revised: 5/17/10, 2/24/14, 2/23/15, 1/25/16, 8/20/18, 8/16/21, 3/20/23, 7/17/23, 11/20/23, 8/19/24, 3/16/26, 7/20/26
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