

# FULL-TIME PUBLIC SCHOOL OPEN ENROLLMENT

## Policy 423

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This policy shall be administered in accordance with the state public school open enrollment laws for applications received during the regular open enrollment period and alternative open enrollment applications and the administrative rules established by the Department of Public Instruction (DPI).

Subject to the exception that the School Board, each January, shall act upon any annual space availability determinations for purposes of nonresident open enrollment into the District, the Board authorizes the District Administrator, or any administrative-level designee of the District Administrator, to make all other decisions and determinations that are necessary or permitted in connection with any open enrollment application or any open enrollment student under this policy and under any related Board-approved rule. However, this delegation of authority shall not be construed to prohibit the District Administrator from bringing any such decision or determination to the Board as he/she deems necessary or prudent.

### **Nonresident Open Enrollment Students**

A nonresident student may apply for full-time enrollment in a public school in the District under the open enrollment program. Applications may be completed and submitted using DPI's online system or by completing the DPI's paper application form and submitting the paper application to the Office of the District Administrator. Upon receipt of any paper copy of a nonresident student's application to attend a school or program in the District, office staff shall affix a date stamp (or a written and initialed date) to the application and forward the application to the District Administrator or his/her designee for review and processing.

The District shall consider and apply the following criteria when deciding whether or not to accept (or, in some situations, revoke acceptance of) a nonresident student's application for full-time open enrollment:

#### **1. Space Availability and Waiting Lists.**

The District shall consider the availability of space in the schools, programs, classes or grades within the District. When determining space availability, consideration may be given to desired class size limits, desired student-teacher ratios, overall building capacity, future enrollment projections, the projected number of sections of particular grades or courses, desired program-size limitations, the requirements of any applicable contracts or grants, and known or projected limitations on available staffing and other resources. Based upon a review of the relevant considerations, the Board may annually establish, at a Board meeting held in January, space limitations applicable to nonresident open enrollment.

At a minimum, any annual determination of space availability shall involve at least a declaration of the District-wide number of nonresident open enrollment applications that the District intends to accept in conjunction with the subsequent regular application period, broken down (1) by grade (although two or more grades may be combined and treated as a single grade); and (2) by any established special education program or service that has identifiable space limitations. However, in any year in which the Board establishes a space limitation in any grade/program/service, the Board's determination of space availability may also indicate, at the Board's discretion in light of its assessment of the relevant factors, that

no space limitations are needed in certain other grades/programs/services.

If the Board has taken action in January to limit the number of spaces that will be available in any grade(s), program(s), or service(s) for applications that are submitted during the regular application period (i.e., for enrollment in the following school year), then the District's consideration of nonresident alternative applications for open enrollment shall be limited as provided under DPI's administrative rules. Further, the District shall deny any alternative applications for a particular grade or program for the current school year that are received between the 3rd Friday in September through the date of the Board meeting in January where space availability for open enrollment is again considered if, due to space considerations, the District did not approve all otherwise-eligible regular-period application(s) for that particular grade or program for the same school year.

### The Method of Random Selection Used to Determine which Applications Will Be Approved When there Are More Applications than Available Spaces.

If the District receives more student applications during the regular application period for full-time enrollment than there are spaces available, the District shall determine which students to accept on a random basis, subject to the following exceptions and preferences:

- a. The District grants a guarantee of approval under the space availability criteria to the following applicants during the regular application period:
  - (1) Students who are currently enrolled in and attending school in the District (excluding part-time attendance by a student who is enrolled in another public school district, a private school, a tribal school or home-based private educational program).
  - (2) The siblings of any student who is currently attending school in the District (excluding part-time attendance by a student who is enrolled in another public school district, a private school, a tribal school or home-based private educational program).
- b. As individual applications are selected and considered within the random selection process, the District grants preferential consideration to certain sibling-applicants as required by DPI rule. Specifically, if the District determines during the random selection process that there is space available to accept the individual student whose application is under immediate consideration, then the District shall give immediate consideration to the application(s) of any remaining sibling-applicants in the same family who applied for open enrollment at the same time. The application of any sibling who is entitled to preferential consideration under this paragraph shall be denied if there is no remaining space in such sibling's grade and/or in any special education program or service that may be required for the sibling.

A further description of the local random selection process can be found in the procedural Rule adopted to accompany this policy.

### Waiting Lists for Acceptance of Open Enrollment Applications into the District.

- a. The District creates and administers waiting lists for applications received during the regular application period that are initially denied due to space limitations.
- b. The District does not administer waiting lists for current-year open enrollment applications submitted by nonresident students under the alternative application procedure.
- c. The District does not create or administer waiting lists for the assignment of accepted open enrollment applicants to specific schools/programs for which the applicant has expressed a preference.

A further description of the District's waiting list procedures can be found in the procedural Rule adopted to accompany this policy.

## 2. **Students with Disabilities.**

If the special education or related services required for a student with a disability are not available in the District or if there is no space available in the relevant program/service(s), then the application shall be denied.

In any instance where an application is submitted by a student with a disability but there is no current IEP available for the student, the District will use the procedures defined in DPI's administrative rules to determine whether the District has the appropriate special education program or available space.

If a nonresident student receives his/her initial individualized education program (IEP) while attending the District under open enrollment, or if a nonresident student's IEP changes after the student begins attending school in the District, or if the District has approved an application for a student without an IEP and it is subsequently determined that the student is a child with a disability for whom there is either a record of a previous special education evaluation or a prior IEP based upon such evaluation, then the student may be returned to his/her resident district if the District determines either that the special education or related services required for the student are not available in the District or that there is no space available.

## 3. **Students Referred for a Special Education Evaluation.**

An open enrollment application shall be denied if the nonresident student has been referred or identified as having a possible disability but has not yet been evaluated by an IEP team in the resident district. To the extent permitted by DPI, and assuming other acceptance criteria are and continue to be met, such a student's parent or guardian may request that the District reconsider a denial under this criteria if the IEP (or a finding of no disability) is forwarded to and reviewed by the District prior to the close of the period during which the

District would normally continue to process and accept applications from any waiting lists and if the District concludes that such reconsideration would not be prejudicial to any other applicant.

#### 4. Discipline-Related Criteria.

- a. The term of an applicant's expulsion overlaps with the proposed period of open enrollment. Consistent with state law authority, the District may deny the application and prohibit the enrollment of any student whose term of expulsion (for any lawful reason and regardless of when the expulsion occurs) from any public school, independent charter school in Wisconsin, or out-of-state public school overlaps with the proposed period of open enrollment.

Such an applicant will be denied unless the District determines that (either subject to or not subject to specific enrollment conditions that will apply during the remainder of the term of the expulsion) it would enroll and allow the attendance of any resident student who were to attempt to enroll in the District with the same expulsion record.

- b. The term of an applicant's recent expulsion from school does not overlap with the proposed period of open enrollment. The District may deny an application for full-time open enrollment in the District if a review of the student's disciplinary records indicates that the student-applicant has been expelled by any Wisconsin school district at any time during the current school year or preceding two school years for conduct falling in any of the four specific categories listed in the open enrollment statutes.

Such an applicant will be denied unless the District determines, upon the timely request of the parent who submitted the application, that there is clear and convincing information showing that if the applicant were to have engaged in the same conduct while attending school in the District, that the student almost certainly would have either (1) not been subject to any expulsion proceedings or to any participation in a deferral-type program, or (2) already fully completed the term of any expulsion and been permitted to return to school (without being subject to any ongoing readmission conditions) for at least a full school year prior to first date of his/her proposed attendance in the District.

- c. Disciplinary matters that are pending or that become pending while the application is under consideration. Subject to the limited exception defined in paragraph 4-e, below, if any disciplinary proceeding involving alleged conduct falling in any of the four specific categories listed in the open enrollment statutes is pending at the time the District notifies the student of his/her application status, the District shall deny the application.
- d. Applicants must continue to meet discipline-related approval criteria after initial acceptance. The District shall revoke the prior acceptance of an open enrollment application if the District determines that the student is, in fact, subject to a current expulsion order that would have disqualified the student's application under paragraph 4-a, above. In addition, subject to the limited exception defined in paragraph 4-e, below, the District shall revoke the prior acceptance of an open enrollment application

if, at any time prior to the beginning of the school year in which the student will first attend school in the District, the District determines that the student either has been expelled or become subject to a pending disciplinary proceeding, as described in either paragraph 4-b or paragraph 4-c of this policy, above.

- e. Limited Exception. In situations where a student's application was denied (including as a result of the revocation of an initial acceptance) due to a pending disciplinary matter, the District, upon the written request of the student's parent or guardian, will reconsider the status of the student's application if both of the following conditions are satisfied: (1) prior to the close of the period during which the District would normally continue to process and accept applications from any waiting lists, the District is able to determine that the prior pending disciplinary matter has been concluded in favor of the student; and (2) the District concludes that considering possible acceptance of the application would not be prejudicial to any other applicant.

5. **"Best Interests" Determinations under the Alternative Open Enrollment Application Criteria and Procedures.**

If a parent or guardian applies for open enrollment under the alternative open enrollment application criteria and procedures and relies on the "best interests of the student" criteria, the District shall review the information and rationale provided by the parent(s) or guardian(s) and make a determination as to whether the District agrees with the parent(s) or guardian(s) that attending school in the District pursuant to the application is in the student's best interests. If the District determines that attendance would not be in the student's best interests, the application shall be denied on that basis.

A full-time open enrollment application can also be denied if the nonresident student is ineligible for open enrollment under state law (e.g., the student does not meet the age requirements for school attendance or for early admission, the resident district does not have a 4-year-old kindergarten program as offered by the District, etc.) or the application is determined to be invalid (e.g., the application is incomplete, untimely, or in excess of the number of allowable applications).

Assignment of Accepted Applicants to a School/Program.

The District shall assign nonresident students accepted for full-time open enrollment to a school or program. Any preferences identified by the applicant cannot be guaranteed. In making such assignments, the District may give preference in attendance at a particular school or program to residents of the District. Any admission requirements and pre-requisites for attendance in any specialized school or program that apply to resident students also apply to nonresident students. In addition, any nonresident open enrollment student must meet the in-person/physical attendance requirements established by law.

Requests for Early Admission to Kindergarten.

The District does not evaluate a nonresident open enrollment applicant for possible early admission to 4-year-old kindergarten.

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In connection with the regular application period, the District does not evaluate a nonresident open enrollment applicant for possible early admission to 5-year-old kindergarten prior to issuing initial notice of acceptance/denial and establishing an initial grade and school placement that is based on the student's actual age.

### Reapplication.

Once a nonresident student is accepted for full-time open enrollment in the District and begins attending school in the District, no re-application is required in order for the student to maintain continuous open enrollment.

### Transportation.

Student transportation and the costs thereof shall be the responsibility of the nonresident student's parent(s) or guardian(s), subject to the following exceptions:

1. Low income parents and guardians may apply to the DPI for reimbursement of costs of transportation in accordance with DPI's procedures.
2. The District shall provide transportation for a nonresident open enrollment student with a disability who is attending school in the District if it is required in the student's IEP or otherwise required by law.
3. Upon request of the student's parent or guardian, the District shall provide transportation to nonresident full-time open enrollment students without charging any fee if there is room available on a bus on a regular route and the student is picked up or dropped off at a bus stop on the established route, except that if the bus stop on the established route is located within the boundaries of the student's resident school district, the resident school district must also approve the transportation arrangement.

### Rights and Privileges.

To the extent required by state law, nonresident open enrollment students attending school in the District shall have all of the rights and privileges of similarly-situated resident students and shall be subject to the same rules and regulations as resident students. An open enrollment student's eligibility to participate in interscholastic athletic activities is subject to the rules and regulations of the Wisconsin Interscholastic Athletic Association (WIAA).

### **Resident Open Enrollment Students**

Resident students may apply for full-time open enrollment in another public school district in accordance with state law. An application may be denied if the resident student is ineligible for open enrollment under state law (e.g., the student does not meet the age requirements for school attendance or for early admission, the District does not have the same program offered by the nonresident district, etc.) or the application is determined to be invalid (e.g., the application is incomplete, untimely, or in excess of the number of allowable applications).

For the 2015-16 school year, the District may also deny a resident student from attending school in another public school district under the alternative open enrollment application criteria if the

costs of the special education and related services required in the student's IEP would place an undue financial burden on the District, taking into account the District's total economic circumstances, and provided that the student has not been a victim of a violent criminal offense as further defined under state law.

If the student has applied for open enrollment under the alternative open enrollment application criteria and procedures authorized by law, the District shall deny the student's open enrollment if the District determines that none of the criteria relied on by the student to submit the application apply to the student. However, prior to denying an alternative application on the basis that the parent or guardian did not provide enough information to allow the District to assess whether the student has been the victim of repeated bullying or whether open enrollment would be in the best interests of the student, the District shall offer the parent or guardian an opportunity to provide additional information.

Transportation. The parent(s) or guardian(s) of a resident open enrollment student shall be responsible for student transportation, except as otherwise provided by law. Requests from other school districts to provide optional transportation to resident open enrollment students to/from locations within the boundaries of the District shall be denied.

### **Appeals of Open Enrollment Decisions**

The student's parent(s) or guardian(s) may appeal a District decision regarding full-time open enrollment to the DPI by following the deadlines and other procedures established by the DPI, except as otherwise specifically provided under state law or under DPI rules.

### **Legal References:**

#### **Wisconsin Statutes**

<a href="#">Section 115.787</a>	[individualized educational programs for students with disabilities]
<a href="#">Section 118.16(1)(a)</a>	[definition of habitual truant]
<a href="#">Section 118.51</a>	[full-time public school open enrollment]
<a href="#">Section 120.13(1)(f)</a>	[authority to deny enrollment of student during the term of expulsion]
<a href="#">Section 120.13(1)(h)</a>	[conditional enrollment of expelled students]
<a href="#">Section 121.54(3)</a>	[transportation for children with disabilities]
<a href="#">Section 121.54(10)</a>	[optional transportation for full-time open enrollment students]
<a href="#">Section 121.545(1)</a>	[optional transportation under a parent contract]
<a href="#">Section 121.55</a>	[methods of providing transportation]
<a href="#">Section 121.555</a>	[alternative methods of providing transportation]

#### **Wisconsin Administrative Code**

[PI 36](#) [DPI administrative rules governing inter-district open enrollment]

**Adoption Date: 2015**