



## 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

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:

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 only limit the enrollment of nonresident students 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 one (1) percent of Early Childhood Special Education programs; up to three (3) percent of total enrollment at each grade level at elementary schools (grades K-5); one (1) percent of the total enrollment at each grade level at middle school (grades 6-8); and, up to three (3) percent of total enrollment at high schools.
  - b. 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.
3. the applicant is not otherwise excluded by action of the school district because of previous conduct in another school district.

B. 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, with the exception of 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.

C. 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.

D. Application. The parents/guardians/students must submit an Application for Enrollment School District Enrollment Options Program (enrollment forms located on the District website).

E. 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. Siblings of currently enrolled students and applications related to an approved integration and achievement plan must receive priority prior to the lottery. The process for the school district lottery must be established by school board policy and posted on the school district's website.

1. All applications received that meet the siblings of currently enrolled student's criteria, are identified and coded as priority prior to the lottery process taking place.
2. Following the Jan 15 deadline, priority applications are separated into specific

grade levels. The number of available seats for each grade level is established. If there are more priority applications received for a grade level than there are seats, an impartial lottery is conducted for each grade level to determine which students will receive a seat.

- a. Each priority application is assigned a number. The impartial lottery is conducted using a Bingo format. The number of Bingo Balls matching the number of applications is placed in the Bingo Cage. The order in which the numbered ball falls, establish the lottery number assigned to the priority application.
  - b. This process is repeated for all grade levels receiving more applications than seats available.
3. All priority applications not offered a seat, will remain open, in order of the issued lottery number until the first day of school year applied for. A deny letter is mailed to the parent.
4. If a seat becomes available, prior to the first day of the school year, then the first open priority application in order of the issued lottery number is offered that seat.
5. All priority applications must be offered a seat before moving forward to a non-priority application.
6. A second impartial lottery is then conducted with all remaining non-priority applications received by the Jan 15 deadline using the Bingo format. A lottery number is issued to the application to establish the order a seat would be offered should one become available.

#### F. 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/designee with a recommendation of whether exclusion proceedings should be initiated.
2. 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.

G. Termination of Enrollment

1. 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 sixteen (16) 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.
2. 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.
3. 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.

***Legal References:***

Minn. Stat. §120A.22, Subd. 3(e) (Residency Determined)  
Minn. Stat. §120A.22, Subd. 8 (Withdrawal from School)  
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.68 (High School Graduation Incentives Program)  
Minn. Ch. 260A (Truancy)  
Minn. Stat. §260C.007, Subd. 19 (Habitual Truant Defined)  
Op. Minn. Atty. Gen. No. 166-f (August 13, 1986)  
*Indep. Sch. Dist. No. 623 v. Minn. Dept. of Educ.*, Co. No. A05-361, 2005

WL3111963 (Minn. App. 2005) (unpublished)

***Cross References:*** MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 517 (Student Recruiting)  
MSBA Service Manual, Chapter 5, Various Educational Programs

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