



Book	Policy Manual
Section	Volume 15 Number 2 Update-Ready for the Board
Title	Revised Policy - Vol. 15, No. 2 - August 2023 - OPEN ENROLLMENT FOR NONRESIDENT STUDENTS
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Revised Policy - Vol. 15, No. 2 - August 2023

5113 - OPEN ENROLLMENT FOR NONRESIDENT STUDENTS

Nonresident students shall be permitted to enroll in a school or program of this ~~District~~ district, provided each enrollment is in accordance with laws and regulations of the State concerning nonresident student enrollment and transfer, the provisions of this policy, and the administrative guidelines established to implement this policy. Transfers of nonresident students from one ~~district~~ district to another does not require the approval of the ~~District~~ district Board in which the student resides.

The process for enrollment applications shall be clearly publicized to parents and the general public, including dates and timelines, and shall be made available in the board's website. The board shall also establish a process for nonresident students to enroll in any school within the district on a case-by-case basis at anytime during the academic year so long as all other requirements are met including that the student has not previously transferred within the same school year. This policy shall not discriminate against nonresident students on the basis of their residential address or any potential disability status.

Enrollment policies are subject to the following criteria:

A. The ~~District~~ district shall give enrollment preferences to:

1. (x) Siblings of students already enrolled through the open enrollment policy;
2. (x) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;
3. (x) Students who are children, grandchildren, or legal wards of employees of the nonresident ~~district~~ district;
4. (x) Students whose legal residences, though geographically within another ~~district~~ district, are more proximate to a school within the receiving ~~district~~ district, whether calculated by miles or transportation time; and
5. (x) Students who reside in a portion of a sending ~~district~~ district where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the nonresident student to a school within the sending ~~district~~ district, and a school within the receiving ~~district~~ district is more easily accessible

B. The receiving Board may, but is not required to, provide an adequate means of transportation to a nonresident student's residence, subject to the following:

1. The receiving board is not required to uniformly provide transportation to nonresident students.
2. For nonresident students with an IEP that specifies transportation is necessary fulfillment of the program, the receiving ~~district~~ district shall either:

- a. provide transportation to and from the school the nonresident is attending and the nonresident student's residence;
 - b. provide transportation to and from an agreed upon point on a regular transportation route within the receiving ~~district~~ district; or
 - c. provide payment in lieu of transportation for the total miles traveled each day to and from the nonresident student is attending and the nonresident student's residence.
- C. The receiving ~~district~~ district only may deny a transfer application for the following reasons:
- 1. There is a lack of grade level capacity in the receiving ~~district~~ district. Lack of grade level capacity means if approval of the transfer request would result in the receiving ~~district~~ district being required to employ additional staff or compensate a classroom teacher pursuant to WV Code 18-5-18a.
 - 2. Lack of programs or services due to areas identified on the district board's critical need policy.
 - 3. The commission of a Level 3 or Level 4 inappropriate behavior as defined by West Virginia Board of Education Policy 4373 in the last year.
 - 4. The nonresident student failed to submit the transfer application correctly.
- D. In the event a nonresident student fails to fill out or submit an open enrollment application correctly, the Board shall provide an explanation of the ways in which the application may be corrected and submitted for necessary approval.

Funding for Nonresident Students

- A. If a nonresident student begins attending school in the receiving ~~district~~ district after the second month of the school year, the receiving ~~district~~ district may issue, in the following fiscal year, an invoice to the sending ~~district~~ district for the pro rata amount the receiving ~~district~~ district would have received under the state basic foundation program had the nonresident student been included in the receiving ~~district's~~ district's net enrollment for the prior year. The sending ~~district~~ district shall reimburse the receiving ~~district~~ district the amount of the invoice.
- B. If a nonresident student begins attending school in the receiving ~~district~~ district after the second month of the school year, the receiving ~~district~~ district may issue, in the following fiscal year, an invoice to the sending ~~district~~ district for the pro rata amount the receiving ~~district~~ district would have received under aid to exceptional students had the nonresident student been included in the receiving ~~district's~~ district's net enrollment for the prior year. The sending ~~district~~ district shall reimburse the receiving ~~district~~ district the amount of the invoice.
- C. If a nonresident pre-k student begins attending school in the receiving ~~district~~ district after the child count of exceptional students is certified for a school year, the receiving ~~district~~ district issue, in the following fiscal year, an invoice to the sending ~~district~~ district for the pro rata amount the receiving ~~district~~ district would have received under aid to exceptional students had the nonresident student been included in the receiving ~~district's~~ district's net enrollment for the prior year. The sending ~~district~~ district shall reimburse the receiving ~~district~~ district the amount of the invoice.

Transfer Application Appeals

Any nonresident student whose transfer application is denied may file an appeal with the State Superintendent.

The State Superintendent must receive the transfer application appeal within thirty (30) days of the date the receiving ~~district~~ district denied the transfer application.

The State Superintendent shall review the transfer application and the receiving ~~district's~~ district's denial decision and may hold a hearing if warranted.

The State Superintendent shall issue a decision on the appeal no later than five days prior to the start of a semester. If the transfer application appeal was not received in time for the State Superintendent to meet this deadline, the State Superintendent ~~will~~ shall issue a decision as soon as practicably possible.

A decision issued by the State Superintendent shall be final.

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DEFINITIONS:

A. Class/School Size

The restrictions on the number of students in a class/school due to State law, or financial or operating conditions and ~~District~~ district policy.

B. ~~District~~ district Student

A student who resides in this ~~District~~ district.

C. Nonresident Student

Means a student who resides in the State of WV and who is enrolled in or is seeking enrollment in a ~~district~~ district other than the ~~district~~ district in which the student resides.

D. Open Enrollment

Means a policy adopted and implemented by a Board to allow nonresident students to enroll in any school within any school within the ~~District~~ district. Open enrollment is distinct from mutual agreement of two (2) Boards regarding mass transfer of students as contemplated in WV Code 18-5-13(f)(1)(c).

E. Program

Any one (1) of the specific course offerings of this ~~District~~ district.

F. Program Size

The restrictions on a number of students in a program due to WV law and circumstances unique to that specific program, and/or financial or operating conditions of the ~~District~~ district.

The Superintendent shall prepare guidelines for the implementation of this policy in ways that comply with relevant State laws and guidelines and establish procedures that provide for the following:

- A. Compliance with Federal and State discrimination laws.
- B. Students who have been suspended or expelled from a public or private school in West Virginia or another state, currently residing within the ~~District~~ district, may not be denied enrollment in the ~~District~~ district school system unless determined to be a "dangerous student" under the procedures set forth in WV Code 18A-5-1a. ~~District~~ district superintendents may, in their discretion, determine the appropriate educational placement, including alternative education services, for these students (State Superintendent of Schools' Interpretation of January 26, 2007).
- C. Application procedures including the criteria by which applications from nonresident students shall be reviewed and prioritized. ~~District~~ district students and any nonresident students previously enrolled under the provisions of this policy shall be given priority.
- D. Communications with applicants and their parents concerning this policy and the ~~District's~~ district's guidelines, including the timelines for application and notification of acceptance or rejection.
- E. Athletic eligibility complies with State regulations and the provisions set forth by the West Virginia Secondary Schools Activities Commission (WVSSAC).
- F. Any transportation provided by the ~~District~~ district to the nonresident student takes place within established bus routes and bus stops within the ~~District~~ district.
- G. Set ~~District~~ district capacity limits by grade level, school building, and educational program. The Board reserves the right to modify the conditions under which nonresident enrollment would continue for any particular program, classroom, or school.

The Board shall report annually to the State Department of Education the number of resident and nonresident student transfers approved by the Board for the preceding school calendar year, as well as the number of resident and nonresident student transfer applications denied and the reasons for those denials. Information regarding the annual number of resident and nonresident student transfer approvals and denials shall also be made available on the Board's website. The Board reserves the right to modify the conditions under which nonresident enrollment would continue for any particular program, classroom, or school.

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Legal

West Virginia Board of Education policy 7212

WV Code 18-5-16 and 18-5-16a