

## Open Enrollment Policy for Nonresident Students

### Scope.

In accordance with W.Va. Code § 18-5-16(c), McDowell County Schools District will allow nonresident students to enroll in any school within the district so long as:

1. The nonresident student completes the established application process during the designated open enrollment period;
2. The nonresident student's transfer would not result in a violation of required class, program or school size restrictions as set forth in state law; and
3. The transfer is otherwise in accordance with the laws and regulations of the State concerning nonresident student enrollment and transfer.

A nonresident student does not have to seek transfer approval from his or her county of residence in order to apply for a transfer pursuant to this policy, nor shall any such student be required to pay for any tuition as part of such transfer.

In accordance with this policy, McDowell County Schools will permit any eligible elementary, middle or high school student currently residing within the county to similarly apply for enrollment in any district program or school currently outside the attendance zone in which the student resides.

### Definitions

Class or School Size – The restrictions on the number of students in a class, program or school pursuant to state or federal law, financial or operating conditions and district policy.

Nonresident Student – A student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

Open Enrollment – A policy adopted and implemented by the Board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated by W.Va. Code § 18-5-13(f)(1)(3).

Program – Any one (1) of the specific course or program offerings of this district.

Program Size – The restrictions on the number of students in a program due to state or federal law, the circumstances unique to that specific program, and/or the financial or operating conditions of the district.

### Enrollment Period and Application Process

The McDowell County Schools will establish an open enrollment period during which nonresident students may apply to enroll in any school within the district. The open enrollment application period shall be publicized by the District and may begin accepting applications for the upcoming school year no earlier than July 1. To ensure notification of admission status prior to the start of the new school year, open enrollment applications must be submitted by a nonresident student's parent or legal guardian by August 1 for the upcoming school year.

The District shall promulgate an application form for nonresident students seeking to transfer to any school within the district, which shall be made publicly available on the Board's web site. The application shall contain any and all information necessary to process the nonresident student's transfer, including, but not limited to the factors for enrollment preference contained within this policy.

### **Acceptance of Nonresident Student Applications**

At the close of the open enrollment period, the Superintendent shall determine the space available, if any, in the grade level or program for which each application was made. All nonresident student applicants whose transfer would not violate required class, program or school size restrictions shall be approved and accepted by the Superintendent.

If there are more applications received than spaces available during a given open enrollment period, then the Superintendent shall fill the available spaces by a random lottery selection as set forth herein, provided that the Superintendent may first give enrollment preference, in no particular order, to the following applicants:

1. Siblings of students already enrolled through the open enrollment policy;
2. 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. Students who are children, grandchildren, or legal wards of any employee of the county school system, including any and all school service personnel;
4. Students whose legal residences, though geographically within another district, are more proximate to a school within the receiving district, whether calculated by miles or transportation time; and
5. Students who reside in a portion of a district where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the district, and a school within a contiguous district is more easily accessible.

To the extent that space remains available after the Superintendent's issuance of any and all enrollment/transfer preferences, nonresident student applications shall then be selected through a random lottery drawing, which shall take place at the county board office and witnessed by two central office employees as designated by the Superintendent. Notice of the random lottery drawing shall be provided in advance to all parents or legal guardians of nonresident student applicants.

All nonresident student applications properly submitted shall be drawn and numbered for enrollment consideration. Nonresident student applicants whose names are selected in order, up to the capacity limitations determined by the Superintendent, shall be permitted to enroll for the upcoming school year. All nonresident student applicants not enrolled pursuant to the random lottery drawing shall be placed on a waiting list in the order in which they were selected. Available space within a classroom, program or school shall be subsequently filled from the established waiting list.

The open enrollment school shall become the permanent home school for any student who successfully completes the open enrollment process and any such student shall not be required to apply through the open enrollment process year-after-year to maintain his or her place in the school district.

### **Late Applications**

If space remains available for the upcoming school year after the Superintendent's acceptance of all nonresident student applications received during the designated open enrollment period, then the Superintendent may, in his or her discretion, process the applications of any nonresident students received after the close of the open enrollment deadline. Any such late applications will be reviewed on a first come, first serve basis.

### **Appeal Process**

The parent or guardian of any nonresident student whose application for transfer is timely filed but denied by the Superintendent may file an appeal with the Board within thirty (30) days of the denial of the transfer application. The appeal shall state the reasons for which the denial was improper. Any request for hearing shall be conducted in accordance with state law and the policies and procedures as set forth by the West Virginia State Board of Education.

The Board shall issue a decision regarding any transfer request within thirty (30) days following the appeal of the Superintendent's denial, or in the case of a hearing request within thirty days (30) from the requested hearing. A parent or guardian of any nonresident student whose transfer denial is upheld by the Board may appeal such decision in accordance with the rules established by the state board of education.

### **Transportation**

Any nonresident student who receives approval to transfer to any school within the district may be transported by the school district's bus on an established route that is accessible to the student. The Board will provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student is a student with disabilities and has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

### **Publication of Open Enrollment Policy Materials**

In furtherance of this policy, the Board shall make publicly available on its web site a copy of this policy, all other information required to be made publicly available pursuant to this policy, as well as any and all other information necessary for implementation of the open enrollment process.

### **Additional Guidelines**

In addition to the requirements set forth herein, the District will

1. Review the applications in compliance with applicable Federal and State Discrimination laws;
2. Not deny enrollment to students who have been suspended or expelled from a public or private school in West Virginia or another state, and currently residing within the district, unless determined to be a "dangerous student" under the procedures set forth in WV Code 18A-5-1a. The Superintendent may, in his or her discretion, determine the appropriate educational placement, including alternative education services, for these students (State Superintendent of Schools' Interpretation of January 26, 2007);
3. Ensure that no student who is in foster care or who is designated as "homeless" under the provisions of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)) be denied enrollment pursuant to the Act;
4. Communicate with nonresident student applicants and their parents concerning this policy and the district's guidelines, including the timelines for application and notification of acceptance or rejection;
5. Comply with athletic eligibility regulations and the provisions set forth by the West Virginia Secondary Schools Activities Commission (WVSSAC);
6. Communicate district capacity limits by grade level, school building, and educational program in order to comply with WVDE Policy 2510 guidance.

**Open Enrollment Annual Report**

The Superintendent shall annually report to the Board regarding the ongoing implementation of the open enrollment program, a copy of which shall be made publicly available on the Board's web site. The Superintendent's report shall include, but not be limited to, the following information:

1. The total number of nonresident student transfers approved for the given school year;
2. The total number of nonresident student transfers denied for the given school year;
3. The reasons for denial of the nonresident student transfers; and
4. An estimate of the number of open enrollment seats that will be available in the school district for the upcoming school year.

**Calculation of Net Enrollment**

Whenever a nonresident student is transferred on a full-time basis from one district to another pursuant to this policy, the district in which the student is transferred shall include such student in its net enrollment.

Whenever a nonresident student chooses to return to a school of his or her residence after the second month of any school year, the following shall apply:

1. The district of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro-rata basis, that the district of residence otherwise would have received under the State Basic Foundation Program.
2. The district from which the student transferred shall reimburse the district of residence for the amount of the invoice.

Reference: W.Va. Code § 18-5-16(c)

Adopted: August 17, 2020