

## **5113 - PUBLIC SCHOOL OPEN ENROLLMENT (Inter-District)**

The Wauwatosa School District ("District") will participate in the Wisconsin Public School Open Enrollment Program in accordance with applicable law and the relevant policies and rules of the District.

### **DEFINITIONS**

For the purposes of this Policy, the following definitions will apply:

**A. Nonresident District**

A school district located in Wisconsin which is not a student's district of residence.

**B. Nonresident Student**

A student who is a legal resident or otherwise legally entitled to attend school in another school district in Wisconsin and who seeks admission to this District under the Open Enrollment Program.

**C. Tuition Student**

A nonresident student who is a resident of the State of Wisconsin and who pays tuition in accordance with State law.

**D. Full-time Enrollment**

A student is enrolled for the entire school day and receives all of his/her required education in this District.

**E. Resident Student**

A student who is a legal resident of this District and is consequently entitled to attend school in this District in accordance with Policy [5111](#) - Eligibility of Resident/Nonresident Students.

**F. Habitually Truant**

"Habitually truant" means being absent from school without an acceptable excuse for part or all of five (5) or more school days during any semester. Students missing part of a school day due to tardiness can be considered habitually truant. Tardy is defined as arriving to school more than five (5) minutes after the start of a school day or arriving to a specific class after the bell rings to alert the start of a class without an acceptable excuse.

## **DESIGNATION OF AUTHORITY**

The School Board designates the Superintendent and/or designee's of the Superintendent, to act on applications for the full-time open enrollment program, subject to any policies and criteria adopted by the school board.

## **NONRESIDENT OPEN ENROLLMENT STUDENTS**

### **A. Application Procedures**

Applications from nonresidents for full-time open enrollment into a District school must:

1. Be submitted on the form provided by the Department of Public Instruction ("DPI"); and
2. Be received during the approved application period determined by the Department of Public Instruction, on or after the first Monday in February and before 4:00 PM on the last business day in April, unless otherwise provided by the DPI. Paper applications shall be received by the Wauwatosa School District Department of Teaching and Learning and date stamped upon receipt.

Copies of all nonresident student applications will be sent to the resident school district of each nonresident student and the DPI no later than 4:00 PM on the last business day in April, unless otherwise provided by the DPI.

### **B. Procedures for Processing Applications, Random Selection, and Waiting List**

Prior to accepting any open enrollment applicants, the District will accept or reject all timely applications made under the Chapter 220 program. If, after making all Chapter 220 decisions space is available, the District will accept open enrollment students.

If there are more applications for a particular grade than there are available spaces, the Board will fill the available spaces by random selection, provided that a preference will be given to siblings of nonresident students currently attending school in the District. The District shall include all applicants in the random selection process, whether they meet the criteria for acceptance in this Policy (see Section C below) or not. Students with disabilities are included in the random selection process held for their grade before the District considers the availability of space within the special education services or programs that are required by the student's IEP.

After the available spaces are filled, the District will establish a waiting list of nonresident applicants who have been denied open enrollment due to lack of space availability. Unless an applicant meets the criteria for rejection in Section C below, the District will assign the applicant a place on the waiting list on a random basis, at the same time and using the same criteria to accept open enrollment applications.

The District shall conduct the random selection process and administer the waiting list as follows:

1. For each grade level, identify the applications of students who are entitled to preference because they are the siblings of students already attending school in the District. For purposes of this paragraph, attendance in the District does not include solely part-time attendance by, for example, a student who is enrolled in another school district, private school, tribal school or home-based educational program.
2. Randomize the order of the grade levels from which applicants are selected. For each grade level, use a random selection process to fill the available spaces with applicants entitled to preference. The random process (such as placing the application numbers in a container and conducting a blind drawing or using a computer-based program such as random.org), shall be conducted in the presence of at least two staff members. If space is still available in a grade level after accepting students entitled to preference, the District will use the same random selection process to fill the remaining available spaces with applicants not entitled to preference. This process will continue until any available spaces are filled in each grade level.
3. If, at any time in the random selection process one student application from a family is chosen, the District shall give immediate consideration to the applications of remaining siblings in the family who applied for open enrollment at the same time, and admit all such otherwise eligible siblings if there is a space available in the sibling's grade at that point in the process.
4. When all available open enrollment spaces are filled, identify the applications of students who do not meet one or more of the remaining criteria (other than space availability) for acceptance established in Board policy, and deny these applications even if the student was assigned a space during the random selection process, above.
5. Place applicants who are entitled to preference (but not accepted due to space unavailability) in groups by grade level entitled "preference, waiting list." Place all remaining applicants in groups by grade level entitled "waiting list." Using the same random process described above, draw applicants from the "preference, waiting list" group in each grade level, and assign each applicant a place on the wait list for that grade level in the order they are randomly drawn. After all applications entitled to preference are assigned a place on the wait list for each grade, continue the random process to assign the "waiting list" applicants places on the wait list for each grade.

On or before the first Friday after the first Monday in June, the District shall send the parents and guardians of all nonresident applicants who were accepted for open enrollment using the random process via the appropriate acceptance form. The notice will include the specific school or program that the student may attend in the following school year. On or before the first Friday after the first Monday in June, the District shall also notify all parents and guardians of nonresident applicants who have been denied under any of the District's criteria. This notification shall include the reason(s) for the

denial and information regarding appeal rights required by Wis. Admin Code PI 36.06(4)(c).

If any spaces become available in a particular grade, applications may be accepted from the waiting list for that grade in accordance until the third Thursday in September, as long as the applicant will attend school in the District on the third Friday in September. The notice to the parents of acceptance from the waiting list may be verbal or written. Parents must provide notice of the student's intent to attend school in the non-resident district no later than 10 days after receipt of the notice of the acceptance from the waiting list. If the parents do not respond by the deadline, the District may rescind and the open space will be offered to the next applicant on the waiting list.

#### C. Acceptance and Rejection Criteria

The District shall consider the following criteria when deciding whether to accept or reject a nonresident student's application for full-time open enrollment:

##### 1. Space Availability

The District shall deny an application if there is no space available for nonresident transfer students in the schools, programs, or grades of the District. The Board shall determine the open enrollment and special education open enrollment space available in the grades of the District at the January meeting of the Board each school year. On or after the first Monday in February, the Board may not reduce the number of open enrollment spaces available for the following school year. After the January Board meeting, the Board may not increase the number of open enrollment spaces available for the following school year until after the first Friday following the first Monday in June.

In determining the availability of space and special education space, the Board shall aggregate the number of available spaces by grade. The Board may consider, but shall not be limited to, the following: class size limits/ranges; student-teacher ratios; and enrollment projections. The District shall include in its count of occupied spaces students currently attending school in the District.

a. Method for Determining Open Enrollment Space Availability. The District will determine available open enrollment space using the following method. First, the District will project enrollment for the next school year in each grade, including currently attending students, and any anticipated growth in the projections. Then, the District will establish classroom capacity for each grade, using the following class size maximums.

- The District will use a maximum class size of 18 students per class in grades K4 and K5, and a maximum class size of 20 students in grades 1, 2, 3, 4, and 5.
- The District will use a maximum class size of 23 students in the core academic subjects in grades 6, 7, 8, 9, 10, 11, and 12.
- There are no maximum class sizes for grades in the Virtual School.

The District will then determine the number of sections necessary in each grade to accommodate classroom capacity. The District will then establish grade capacity by multiplying classroom capacity by the number of sections necessary to accommodate classroom capacity. The total number of open enrollment seats available in that grade will be determined by establishing open enrollment grade capacity at 85% of grade capacity and subtracting projected enrollment from open enrollment grade capacity.

- b. Method for determining Open Enrollment Special Education Space Availability. The following method will be used to determine available special education open enrollment space availability. The Superintendent or Designee of the Superintendent, will review each special education teacher and related service provider's current caseload, project caseload for the next school year, and compare the projected caseload with projected enrollment and DPI caseload recommendations. If the projected caseload for any special education teacher or related service provider is below DPI caseload recommendations, then space will be available to provide that specific type of special education or related services up to that caseload recommendation. The District will use the following equivalents for areas of disability not included in the DPI special education caseload factoring formula's; For Autism apply CD equivalents, for Orthopedic Impairment apply LD equivalents, For Significant Developmental Disability apply CD, for Other Health Impairment apply ED, for Traumatic Brain Injury apply CD. If a teacher or related service provider's projected caseload is above 85% of the DPI caseload recommendations, then no space will be available to provide that type of special education or related service for the next school year.

## 2. Invalid/Ineligible Applications

The District may deny an application if it is ineligible or invalid for one of the following reasons:

- a. The parent submitted applications to more than three (3) nonresident school districts.
- b. The application is untimely and/or is incomplete. Untimely applications will not be processed, nor will the review process be delayed by failure to submit supporting documentation. In the case of a paper application, the application will be considered incomplete if it is not signed.
- c. The parent deliberately provided false or misleading information on the application.
- d. Whether an applicant for a pre-kindergarten, early childhood or school operated day care program resides in a district which offers the program for which application is made.
- e. The student is not eligible for open enrollment because the child's resident school district does not offer the same type of 4-year-old kindergarten or early childhood

education program that the child requests or the child is not eligible for the program in her or his resident school district, as described by Wis. Admin. Code PI 36.03.

- f. The child does not meet the age requirements for school attendance (four-years-old by September 1 for admission to 4-year-old kindergarten or five-years-old by September 1 for admission to 5-year-old kindergarten.) Non-resident applicants are not eligible for early admission screening.
- g. The grade listed on the application does not comply with Wis. Admin. Code PI 36.06(3)(b) and the District denied applications for that grade, the District no longer has space in that grade, or the District determines the grade listed on the application is not appropriate for the student.

### 3. Disciplinary Criteria

The District may deny an application if the nonresident student has been expelled from any school district within the current school year or the two (2) preceding school years, or if a disciplinary procedure involving the student is pending, based on any of the following activities:

- a. Conveying or causing to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by means of explosives.
- b. Engaging in conduct while at school or under school supervision that endangered the health, safety or property of others.
- c. Engaging in conduct while not at school or while not under the supervision of a school authority that endangered the health, safety, or property of others at school or under the supervision of a school authority or of any school employee or Board member.
- d. Possessing a dangerous weapon (as defined in Section 939.22(10), Wis. Stats.) while on school property or under school supervision.

Notwithstanding the Board's acceptance of a nonresident student's application, the Board may withdraw acceptance if, prior to the beginning of the first school year in which the nonresident student will attend a school in the District, s/he is determined to fall under paragraph C(3)(a)-(d).

The Board may request a copy of a nonresident student's disciplinary records from the resident school board.

### 4. Availability of Special Education or Related Services

The District may deny an application if the special education program or related services described in the nonresident student's individualized education program ("IEP"), if any, are available in the District.

5. Special Education Space Availability

Whether there is space available in the District for the special education program identified in the nonresident student's IEP, after consideration of class size limits, student-teacher ratios, and enrollment projections. (See paragraph (C)(1) above.

6. Special Education Evaluation Referral

The District may deny an application if the nonresident student has been referred to his/her resident school district for a special education evaluation or identified by his/her resident school district as a child with a disability who is in need of special education and related services, but the child has not yet been evaluated by an IEP team appointed by the resident school district.

(Note: If a nonresident student's IEP is developed or changed after the student begins attending school in the District, and it is then discovered that the District does not have necessary programs or services available in the District, or does not have space in the special education program, the nonresident student may be transferred to the resident school district.)

7. Habitual Truancy

The District may deny an application if the student was habitually truant from the District's schools during any semester of attendance at the District's schools in the current or previous school year.

D. Alternative Application Procedures

The parent of a nonresident student who wishes to attend District schools may, in lieu of applying as described above, submit an application under this section on a form provided by the Department of Public Instruction, to the Board indicating that the student wants to attend if the student satisfies at least one of the criteria described in paragraph 1, below.

1. Criteria for Alternative Application Procedures.

The parent of the nonresident student may apply under this section only if the student meets one of the following criteria, and shall describe the criteria that the student meets in the application:

- a. The resident school board determines that the student has been the victim of a violent criminal offense, as defined by the Department of Public Instruction by rule. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application within 30 days after the determination of the resident school board.
- b. The student is or has been a homeless student in the current or immediately preceding school year. In this paragraph, "homeless student" means an individual

who is included in the category of homeless children and youths, as defined in [42 USC 11434a](#) (2).

- c. The student has been the victim of repeated bullying or harassment and all of the following apply:
  - The student's parent has reported the bullying or harassment to the resident school board; and
  - Despite action taken, the repeated bullying and harassment continues.
- d. The place of residence of the student's parent or guardian and of the student has changed as a result of military orders. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 30 days after the date on which the military orders changing the place of residence were issued.
- e. The student moved into this state. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 30 days after moving into this state.
- f. The place of residence of the student has changed as a result of a court order or custody agreement or because the student was placed in a foster home or with a person other than the student's parent, or removed from a foster home or from the home of a person other than the student's parent. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 30 days after the student's change in residence.
- g. The parent of the student, the resident school board, and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the student.
- h. The parent of the student and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the student.

## 2. Nonresident Applications

If the District receives a nonresident student's application under this section, the District shall immediately forward a copy of the application to the resident school board, and shall notify the applicant, in writing, whether it has accepted the application no later than 20 days after receiving the application. The District will determine whether the applicant meets the criteria for Alternative Application Procedures in this section, and consider the criteria for nonresident applications in Section C, above. If the District has accepted the application, the District shall identify the specific school or program that the student may attend.

The District shall not approve alternative applications after the January Board meeting if it limits open enrollment space availability in the applicant's grade for the following school year. The District shall not approve alternative applications before the third

Friday in September if it did not approve all open enrollment applications for the applicant's grade during the regular application period.

If the District accepts a nonresident application under this section, the student may immediately begin attending a school or program in the District, and shall begin attending the school or program no later than the 15th day following receipt by the parent of the student of the notice of acceptance. If the student has not enrolled in or attended school in the District by the day specified in this paragraph, the District may notify the student's parent, in writing, that the student is no longer authorized to attend the school or program in the District.

#### E. Reapplication Procedures

Once a nonresident student is accepted for full-time open enrollment in the District, the District may require accepted open enrollment students to reapply at the beginning of middle school (entering 6<sup>th</sup> grade) or when transitioning from middle school to high school (entering 9<sup>th</sup> grade.)

#### F. Transportation

The parents or guardians of a student attending a nonresident school district will be solely responsible for providing transportation to and from the school site unless the nonresident student is a special education student and transportation is required by his/her IEP.

#### G. Termination of Open Enrollment

The District may terminate a nonresident student's open enrollment in the District for any of the following reasons:

##### 1. Habitual Truancy

If the Board determines that a student attending the District under the full-time Open Enrollment law is habitually truant from the District during either semester in the current school year, the Board may prohibit the student from attending the District under the open enrollment law in the succeeding semester or school year.

A student is considered a habitual truant when they are absent from school without an acceptable excuse for part or all of five (5) or more days during any semester. Students missing part of a school day due to tardiness can be considered a habitual truant. Tardy is defined as arriving to school more than five (5) minutes after the start of a school day or arriving to a specific class after the bell rings to alert the start of a class without an acceptable excuse.

A non-resident student's parent or guardian may appeal to the DPI a termination of the student's full-time open enrollment in the District based on the student's habitual truancy.

2. Expulsion. If the District expels a student, the District may terminate the student's open enrollment.
3. Failure to participate (for virtual school students).
4. The student withdraws from the nonresident school district.
5. The student enrolls in and attends any other public school, private school, or home-based educational program in or out of this state.
6. The student ceases to be a resident of this state.
7. The student was not in attendance on or before the 3<sup>rd</sup> Friday in September, unless the student's first day of attendance after approval of an alternative application was after the 3<sup>rd</sup> Friday in September.

## **RESIDENT OPEN ENROLLMENT APPLICATIONS/STUDENTS**

### **A. Regular Open Enrollment Applications**

Resident students of the District may apply for full-time open enrollment in another public school district in accordance with state law.

Written notice of denial of resident applications must be sent to all applicants and their nonresident districts on or before the second Friday following the first Monday in June. The timelines in this paragraph shall not apply when a parent submits an application under the Alternative Application Procedure. Notice of denial will include a reason for the determination and information regarding appeal rights as required by Wis. Admin. Code PI 36.06(4)(c).

### **B. Alternative Open Enrollment Applications**

Resident students may also apply for open enrollment using the Alternative Application Procedures in Section D, above. If the District receives a resident student's application under Section D, above, the District may notify an applicant under that he/she may not attend a school or program in the nonresident school district only for the following reasons:

1. The District determines that the criteria relied on by the applicant does not apply to the student.
2. The parent(s) or guardian of a resident open enrollment student shall be responsible for student transportation, except as otherwise provided by law. Requests from other school districts to enter the boundaries of the District for the purpose of providing optional transportation to resident open enrollment students shall be denied.

## **ANNUAL REVIEW**

The Superintendent or a designee will review this policy annually after the third Friday of a school year and make any recommendations for revisions prior to the final school board meeting in December.

118.145(4), 118.51,. 118.52, Wis. Stats. P.I. 36

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