

OPEN ENROLLMENT ACT TRANSFERS

The Governing Board desires to offer enrollment options in order to provide children with opportunities for academic achievement and their diverse needs. Such options shall also be provided to children who reside within another district's boundaries in accordance with law, Board policy, and administrative regulation.

Whenever a student is attending a district school on the Open Enrollment List as identified by the Superintendent of Public Instruction, he/she may apply to transfer to another school within or outside of the district, as long as the school to which he/she is transferring has a higher Academic Performance Index. (Education Code 48354, 48356)

For the 2011-2012 school year, Open Enrollment Act transfer applications for district residents will be accepted from April 15 to April 30, 2011. In subsequent years, a parent/guardian whose child is attending a district school on the Open Enrollment List and who wishes to have his/her child attend another school within the district shall apply for enrollment using BP/AR 5116.1 – Intradistrict Open Enrollment.
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)

In addition to the requirements set forth in this policy and its implementing regulation, a student applying for an Open Enrollment Act transfer into a district dual language program must also meet the requirements for admission to the specialized program.

The district cannot accept an application for an Open Enrollment Act transfer if the student's district of residence has prohibited the transfer as allowed under the Open Enrollment Act.

Providing Priority Enrollment to Resident Students

In order to meet the district's constitutional duty to educate students residing in the school district, the Superintendent or designee shall provide resident students an opportunity to enroll prior to accepting any Open Enrollment Act transfer applications under this policy.

After residents have had an opportunity to enroll, the Superintendent or designee shall give priority to siblings of students already in attendance at the requested school on an Interdistrict Transfer Permit, and last to students transferring from decile 1 schools on the Open Enrollment List.

In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, the Board hereby waives the January 1 deadline in Education Code 48354 for all applications for transfer from nonresident parents/guardians of children attending a school on the Open Enrollment List in another district. Transfer applications shall be submitted between April 15 and April 30 of the preceding school year for which the transfer is requested.
(cf. 5111.1 - District Residency)

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Standards for Rejection of Transfer Applications

Pursuant to Education Code 48356, the Board has adopted the following standards for acceptance and rejection of transfer applications submitted by a parent/guardian of a student attending a school in another district on the Open Enrollment List. The Superintendent or designee shall apply these standards in accordance with Board policy and administrative regulation and shall ensure that the standards are applied uniformly and consistently.

As applicable, the Superintendent or designee may deny a transfer application under any of the following circumstances:

1. Upon a determination that the approval of the transfer application would negatively impact the capacity of a program, class, grade level, or school building, including, but not limited to:
 - a. The class or grade level exceeding the district's limits pursuant to the state Class Size Reduction Program or the Morgan/Hart Class Size Reduction Program for Grades 9-12.
 - b. The site, classroom, grade or program exceeding the maximum student-teacher ratio specified in the district's collective bargaining agreement, or the class, grade, program, or site capacity set by the Board in a Board Resolution. The Board reserves the right to revise each class, grade, program, or site capacity on an annual basis.
 - c. The site or classroom exceeding the physical capacity of the facility pursuant to the district's facilities master plan or other facility planning document.
 - d. The class, program or grade level exceeding capacity pursuant items #a-#c above in subsequent years as the student advances to other grade levels at the school.
(cf. 6151 – Class Size)
(cf. 7110 – Facilities Master Plan)
2. Upon a determination that approval of the transfer application would have an adverse financial impact on the district, including:
 - a. The hiring of additional certificated or classified staff.
 - b. The operation of additional classrooms or instructional facilities.
 - c. Expenses incurred by the district that would not be covered by the apportionment of funds received from the state resulting in a reduction of the resources available to resident students.
3. Upon a determination that approval of the transfer application would negatively impact either of the following:
 - a. A court-ordered or voluntary desegregation plan of the district.

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- b. The racial and ethnic balance of the district, consistent with state and federal law.
4. If the applicant has been expelled for any amount of time, regardless of whether the expulsion was suspended, or if the applicant has been cumulatively suspended for more than ten (10) schooldays or suspended on more than three (3) separate occasions (regardless of duration of the suspensions), within the previous two (2) school years.
5. The safety and welfare of the student and/or of other students may be compromised or endangered.
6. A parent/guardian made material false statements or misrepresentations when applying for the student's transfer.
7. The student currently attending a district school on a transfer is matriculating to another school within the district (i.e. matriculating from elementary to middle or middle to high school).
8. Student moved out of the district that was the district of residence at the time the transfer application was granted.
9. If the applicant's prior attendance history meets the definition of a chronic truant pursuant to Education Code section 48263.6 where the student has been absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date.

As applicable, the Superintendent or designee may not deny a transfer application based upon any of the following: The student's previous academic achievement, physical condition, proficiency in the English language, or family income.

The District supports and adheres to a policy of nondiscrimination on the basis of race, color, ethnic group identification, national origin, ancestry, religion, age, marital or parental status, pregnancy, physical or mental disability, medical condition, veteran status, gender, genetic information, sex, sexual orientation, or the perception of one or more of such characteristics. (cf. 5145.3 – Nondiscrimination/Harassment)

Appeal Process for Denials of Transfer Applications

A parent/guardian may appeal the district's denial of a transfer application to the Board by filing a written request of appeal with the Superintendent or designee within 15 days of the date of the written notification of denial. In addition, a parent/guardian who believes he/she has been subject to discrimination may file an appeal using the district's Uniform Complaint Procedures. (cf. 1312.3 - Uniform Complaint Procedures)

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The Board shall schedule an appeal hearing as soon as practicable at a regular or special meeting of the Board. At the hearing, the parent/guardian shall have the right to present oral or written evidence, rebut district evidence, and question any district witnesses. Unless the parent/guardian requests that the hearing be held in open session, the hearing shall be held in closed session in order to protect the privacy of students in accordance with law.
(cf. 9321- Closed Session Purposes and Agendas)

The Board shall make its decision by the next regularly scheduled meeting and shall send its decision to all concerned parties. The Board's decision shall be final.

Program Evaluation

The Superintendent or designee shall collect data regarding the number of students who transfer out of the district pursuant to the Open Enrollment Act. He/she also shall collect data regarding the number of students who apply to transfer into the district, the number of requests granted, denied, or withdrawn, and the district schools and programs receiving applications.

When the Superintendent or designee anticipates that a particular school will receive a large number of transfer applications, he/she shall study the enrollment pattern at that school in order to anticipate future resident enrollment at the school and at the district schools into which those students would normally matriculate.

The Superintendent or designee shall regularly report to the Board regarding the implementation of this program.

Legal Reference:

EDUCATION CODE

200 Prohibition of discrimination

35160.5 District policies, rules, and regulations

46600-46611 Interdistrict attendance agreements

48200 Compulsory attendance

48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

52317 Regional Occupational Center/Program, enrollment of students, interdistrict attendance

Students

BP 5118(e)

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FAMILY CODE

6500-6552 Caregivers

UNITED STATES CODE, TITLE 20

6316 Transfers from program improvement schools

CODE OF REGULATIONS, TITLE 5

4700-4703 Open Enrollment Act

CODE OF FEDERAL REGULATIONS, TITLE 34

200.36 Dissemination of information

200.37 Notice of program improvement status, option to transfer

200.39 Program improvement, transfer option

200.42 Corrective action, transfer option

200.43 Restructuring, transfer option

200.44 Public school choice, program improvement schools

ATTORNEY GENERAL OPINIONS

87 Ops.Cal.Atty.Gen. 132 (2004)

84 Ops.Cal.Atty.Gen. 198 (2001)

COURT DECISIONS

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Policy

Reviewed: February 8, 2011
February 22, 2011

CULVER CITY UNIFIED SCHOOL DISTRICT

Culver City, California

Policy

Reviewed and Adopted: March 8, 2011