

## **509 ENROLLMENT OF NONRESIDENT STUDENTS**

*[Note: The provisions of this policy substantially reflect statutory requirements.]*

### **I. PURPOSE**

The school district desires to participate in the Enrollment Options Program established by Minn. Stat. § 124D.03. The purpose of this policy is 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, excluding special education services; 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 percent of the total enrollment at each grade level in the school district; or (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.
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 pupil who is expelled under Minn. Stat. § 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
2. in length, 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 except where the district of residence is directly included in an enrollment options strategy included in an approved achievement and integration program; or
  6. previous disciplinary proceedings involving the student. This shall not preclude the school district from proceeding with exclusion as set out in Section F. of this policy.
- D. Application. The student and parent or guardian must complete and submit a School District Enrollment Options Program application developed by the Minnesota Department of Education and available on their website (education.mn.gov). Go to "Students and Families," then, under "School Choice," select "Open Enrollment." The form is entitled, "General Statewide Enrollment Options Application for K-12 and Early Childhood Special Education."
- 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. The district must give priority to enrolling siblings of currently enrolled students, students whose applications are related to an approved integration and achievement plan, children of the school district's staff, and students residing in that part of a municipality (a statutory or home rule charter city or town) where:
1. the student's resident district does not operate a school building;
  2. the municipality is located partially or fully within the boundaries of at least five school districts;

3. the nonresident district in which the student seeks to enroll operates one or more school buildings within the municipality; and
4. no other nonresident, independent, special, or common school district operates a school building within the municipality.

The process for the school district lottery must be established by school board policy and posted on the school district's website.

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 with a recommendation of whether exclusion proceedings should be initiated.
2. Superintendent's review. The superintendent may make further inquiries. If the superintendent determines that the applicant should be admitted, he or she will notify the applicant and the school board chair. If the superintendent determines that the applicant should be excluded, the superintendent 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.

**III. DEFINITION**

“Resident students” are students who live with a parent(s) or legal guardian(s) within the boundaries of the Lake of the Woods School District. The district of residence for children living in the Lake of the Woods School District with individuals other than their parent or legal guardian shall be determined by the School District pursuant to applicable law and application of the standards in Article V of this Policy.

**IV. GUIDELINES FOR ENROLLMENT OF NONRESIDENT STUDENTS**

Nonresident students may not enroll or attend schools in the Lake of the Woods School District, except pursuant to one of the following programs or exceptions:

1. The statewide Enrollment Options Program in accordance with Minnesota statutes and the School District's Open Enrollment Policy No. 536.
2. Homeless children, as defined under the McKinney-Vento Assistance Act, are deemed “residents” of the school district in which they are enrolled in a school.

3. Wards of the state of Minnesota who are living in foster care are deemed to be residents of the district in which they live.
4. Students who are emancipated youths under state law are residents of the district in which they live.
5. Students enrolled in a district via a cultural exchange program are considered residents of the district.
6. Nonresident students who reside outside the state of Minnesota may request enrollment in Lake of the Woods Public Schools pursuant to a Tuition Agreement between the student's family and the School District. Tuition shall be governed by Article VII of this Policy.
7. Nonresident students may attend Lake of the Woods Public Schools if they qualify under another School District policy or specific legal provision that permits them or requires them to attend school in the District.

**V. STANDARDS FOR DETERMINING WHETHER A STUDENT IS A RESIDENT OF THE DISTRICT**

1. A student who resides with a parent or legal guardian within the boundaries of the Lake of the Woods School District is presumptively considered a resident of the District. Students whose parents are not married are considered residents of the district in which the student primarily resides for the greater part of the school year. For example, the district in which the parent who has physical custody resides.
2. If a student resides with someone other than a parent or legal guardian and in a different district than the parent or legal guardian, the parent's place of residence is a relevant factor in determining the student's district of residence. The student's general purpose for his/her presence within the district is the controlling factor.
3. If a student is residing in the District with someone other than a parent or legal guardian for the general purpose of attending school in the District or receiving benefits provided by the District, the student is not a resident of the District. All the surrounding facts and circumstances will be considered in determining the general purpose of a student's presence in the District.

**VI. PROCEDURES FOR BARRING ATTENDANCE OF NONRESIDENT STUDENTS**

1. If an administrator in the District reasonably believes that a student is not a resident of the District and is not properly enrolled through the District's Open

Enrollment policy or one of the exceptions stated in this Policy, the administrator shall refer the matter to the Superintendent. The student may be removed from school only after the District sends the student's parent(s) written notice of the District's belief, including the facts upon which the belief is based, and provides an opportunity to provide documentary evidence of residency in person to the Superintendent or designee, or, at the option of the parent(s)/legal guardians, by sending the documentary evidence to the Superintendent or a designee. The Superintendent will make the determination as to whether the student is a resident of the Lake of the Woods School District.

2. Examples of documentary evidence include, but are not limited to: a current lease agreement; a current mortgage statement; a current property insurance statement; a current property tax statement; a recent purchase agreement; a recent moving bill denoting the new address; recent utility bills; a recent voter registration card; a current driver's license; or a current state identification card. The School District may take action to verify the accuracy of any evidence provided by a student or parent.
3. 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 with a recommendation of whether exclusion proceedings should be initiated.
4. The superintendent or designee may make further inquiries. If the superintendent determines that the applicant should be admitted, he or she will notify the applicant and the board chair. If the superintendent determines that the applicant should be excluded, the superintendent 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 proceedings pursuant to the Minnesota Pupil Fair Dismissal Act as warranted on a case-by-case basis.
5. Termination of Enrollment:
  - a. 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 the 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 17 years of age who is absent from attendance at school without lawful excuse for seven school days in a school year if the child is in elementary school or for one or more class periods on seven school days in a school year if the child is in middle school, junior high school, or high school, or a child who is 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days in a school year and who has not lawfully withdrawn from school under

Minn. Stat. § 120A.22, Subd. 8.

- b. The school district may also terminate the enrollment of a nonresident student over 17 years of age if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under Minn. Stat. § 120A.22, Subd. 8.
  - c. 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 parents 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 or the superintendent's designee. The superintendent or the superintendent's designee will make the final determination as to the residency status of the student.
6. Notwithstanding the requirement that an application must be approved by the board of the nonresident district, a student who has been enrolled in the district, who is identified as homeless, and whose parent or legal guardian moves to another district, or who is placed in foster care in another school district, may continue to enroll in the nonresident district without the approval of the board of the nonresident district. The approval of the board of the student's resident district is not required.

## **VII. TUITION AGREEMENTS FOR OUT-OF-STATE STUDENTS**

1. Students who reside in other states may not enroll in Minnesota schools except by a reciprocity agreement (Minnesota Statutes §124D.041) or by a Tuition Agreement between the student's family and Lake of the Woods School District.
2. Applications by out-of-state students for enrollment in Lake of the Woods School District will be considered based on available space and other factors relative to the best interests of the School District and its students, as determined by the Superintendent or designee.
3. The tuition rate for out-of-state students enrolled through a Tuition Agreement shall be calculated by the Superintendent or designee, subject to approval by the School Board. The tuition for students enrolled from a state subject to a Tuition Reciprocity Agreement between the state and the Minnesota Department of Education shall be governed by the terms of the Agreement.
4. Tuition may be paid in advance of enrollment or in two installments. The first payment shall be due prior to the first day of the student's attendance in the

District; and the second payment is due prior to the first day of the second semester. A student is subject to disenrollment after tuition is fifteen (15) days past due.

5. The obligation to pay nonresident tuition shall cease if a determination is made by the District that the student has become a “resident” of the School District.

**Legal references:**

Minn. Stat. § 120A.22, Subd. 3(3) (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)

Minn. Op. Atty. Gen. 169-f (Aug. 13, 1986)  
*Indep. Sch. Dist. No. 623 v. Minn. Dept. of Educ.*, Co. No. A05-361, 2005  
WL3111963 (Minn. Ct. App. 2005) (unpublished)

**Cross References:**

Policy 506 (Student Discipline)  
Policy 517 (Student Recruiting)  
Policy 536 (Open Enrollment)  
MSBA Service Manual, Chapter 5, Various Educational Program

