

ADMISSION OF NONRESIDENT STUDENTS/ ASSIGNMENT OF RESIDENT STUDENTS

This policy is enacted to fairly allow admission and assignment of both resident and non-resident students in Todd County School District 66-1. For the purposes of this policy, the term “resident district” means the district in which a student has legal residence as determined by SDCL 13-28-9. The term “non-resident district” means any district in which a non-resident student seeks to enroll. The term “assigned school” means the attendance center within the district to which a resident student is assigned. The term “non-resident school” means an attendance center within a resident student’s district to which the student has not been assigned.

The board will accept all students from other districts wishing to enroll, provided the non-resident district’s facilities can accommodate the students without adversely affecting the quality of the educational program. This determination will be based upon criteria adopted by the board (see Section C below) and is subject to the following conditions:

A. GENERAL PRINCIPLES

1. A student who is a legal resident of another South Dakota district seeking to transfer to Todd County School District must, make application on forms provided by the Department of Education and Cultural Affairs. The application must be made by an un-emancipated student’s parent or guardian or by the emancipated student. (*The parent with the authority to request enrollment is the resident custodial parent.*)
2. The application will be approved or disapproved by the Todd County School Board and the applicant and resident district must be notified of the decision within five days of the decision. Applications will be reviewed in the order received.
 - a. In-district transfer applications to move to a non-assigned school can be accepted and acted upon by the board at any time; however, decisions regarding transfers among attendance center within a district will be based upon policies consistent with resident/non-resident transfers.

- b. The application may be withdrawn by the applicant prior to the approval of the request and upon notification of the district to which the student applied.
 - c. Once approved by the non-resident district, the applicant's intent to enroll obligates the student to attend school in the receiving non-resident district or non-assigned school for the next school year, unless the two boards agree in writing to allow a student to return to the original district or assigned school or if the parents, guardian, or student changes residence to another district. Students once accepted under this may continue enrollment for subsequent years without reapplication. Enrollment procedures for resident students apply to non-resident students in subsequent school years.
3. Once enrolled in a non-resident district or non-assigned school, the enrollment will continue unless a *bona fide* change of residence occurs or a subsequent transfer application is received.
4. A non-resident district will accept credits granted for any course successfully completed in another accredited district. The non-resident district may award a diploma to a non-resident student only if the student satisfactorily meets the graduation requirements of the non-resident district. If, upon review of an application and the student's transcript, it appears that the student seeking transfer could not satisfy graduation requirements in the non-resident district in the same time frame as the student's class/age peers, the applicant should be notified that additional school attendance will be required in order to receive a diploma.
5. Transportation to school of non-resident students is the responsibility of the applicant. Both the resident and non-resident districts may provide transportation to non-resident students if approved. The receiving district may charge a reasonable fee if the student elects to use the transportation services offered by the receiving district.

B. SPECIAL EDUCATION STUDENTS

Both state and federal law requires the resident district be responsible for providing a free and appropriate public education for students in need of special education and related service. All applications for transfer of a special education student will first be considered by a placement committee, composed of representatives of both the resident and non-resident districts. In addition to the other considerations of the 1997 Open Enrollment Act, the following additional considerations will apply:

1. An individualized education program team consisting of representatives from both the resident and nonresident districts will determine if the nonresident district can provide an appropriate instructional program and facilities, including transportation, to meet the student's needs.
2. If the request to transfer is granted, the nonresident district is responsible for the provision of a free appropriate public education for the student in need of special education or special education and related services.
3. Notwithstanding the provisions of S 13-28-45, the individualized education program team shall also determine whether the student in need of special education requires transportation as a related service. If so, the nonresident district shall provide or ensure the provision of transportation within the boundaries of the attendance center to which the student is assigned.
4. If a parent or guardian of a student in need of special education or special education and related services requests to transfer the student back to the resident district the individualized education program team shall consider the request. Disagreements within this combined placement committee can result in additional special education due process procedures.

C. CRITERIA FOR MAKING TRANSFER DETERMINATIONS

The standards will be available to any individual so requesting. Discrimination based upon race, gender, religious affiliation or disability is prohibited. All members of the same family residing in the same household will be treated the same.

1. The standards will be established based on the capacities of each of the following elements within the district in any approvals:
 - a. Programs
 - b. Classes
 - c. Grade levels
 - d. Buildings
 - e. Student/teacher ratio

Capacities of programs, classes, grade levels and buildings within the district will be established annually by board action. This will be based upon administrative recommendation. The administrative recommendation shall take into account current and projected enrollments in light of physical, fiscal and human resources projected within the district.

Insofar as possible, any numerical factor will be a building or attendance center specific.

2. The Department of Education and Cultural Affairs has authority to promulgate rules setting forth procedural and administrative requirements of the open enrollment program. The school district will follow any and all such rules and procedures.
3. The board may deny applications for any of the following reasons:
 - a. The standards established in paragraph C-1 above are violated.
 - b. The applicant is under suspension or expulsion from any other school.
 - c. The applicant has been convicted of possession, use or distribution of any controlled substance, including marijuana, and is under suspension pursuant to SDCL 13-32-43.
 - d. The applicant has been convicted of a weapons charge relating to the schools and is under suspension pursuant to SDCL 13-32-43.

D. MISCELLANEOUS PROVISIONS

1. The board will assign all students among the schools within the district, pursuant to SDCL 13-28. In district transfer requests must be treated pursuant to SDCL 13-28-43.
2. The district will make relevant information about the district, schools, programs, policies and procedures available to all interested people.
3. Appeals from board action under the 1997 Open Enrollment Act can be made under SDCL 13-46 and the court will conduct a *de novo* review. The time for appeal under SDCL 13-46 is within ninety days from the date of the decision.

LEGAL REFS: SDCL 13-13-10.1; 13-15-8.1 through 13-15-9; 13-15-11; 13-15-21; 13-15-21.1; 13-15-23 through 13-15-24; 13-28-9; 13-28-10 through 13-28-11; 13-28-19; 13-28-19.1; 13-28-21; 13-28-22; 13-28-23; 13-28-30; 13-28-34; 13-28-40 through 13-28-47; 13-32-4.3; 13-37-35; 13-46

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