

**SERIES 400
STUDENTS**

Administrative Rule 423

PROCEDURES FOR DEALING WITH FULL-TIME OPEN ENROLLMENT APPLICATIONS

ANNUAL DETERMINATIONS OF SPACE AVAILABILITY

- A. If the School Board establishes any annual space availability limitations for nonresident open enrollment, state law requires such determination to be made at a January Board meeting prior to the start of the regular application period to which the limitations will apply. Accordingly, the administration shall prepare and present recommendations on space availability to the Board such that the Board is able to adequately consider the information and make a timely determination.
- B. At a minimum, any annual determination of space availability shall involve at least a declaration of the District-wide number of nonresident open enrollment applications that the District intends to accept in conjunction with the subsequent regular application period, broken down (1) by grade (although two or more grades may be combined and treated as a single grade); and (2) by any established special education program or service that has identifiable space limitations. However, in any year in which the Board establishes a space limitation in any grade/program/service, the Board's determination of space availability may also indicate, at the Board's discretion in light of its assessment of the relevant factors, that no space limitations are needed in certain other grades/programs/services.
- C. The general process of determining the number of available spaces by grade and program will involve establishing projected total capacities and then subtracting the projected number of occupied spaces from the total capacities.
 - 1. Any projected future increase (or decrease) in the number of resident students who will be entitled to attend school in the District shall be reasonably incorporated into the District's count of "occupied" spaces.
 - 2. Because the District guarantees space for open enrollment applications that are submitted by currently-attending students during the regular application period, such currently-attending students, to the extent possible, will be included in the count of "occupied" spaces so that the spaces expressly designated as being "available" for open enrollment applicants will be in addition to the already-occupied and guaranteed spaces.
- D. In formulating recommendations to the Board regarding space availability, the administration shall consider and incorporate, to the extent applicable, the following elements of the Department of Public Instruction's (DPI) administrative rules:
 - 1. If the Board establishes any annual space-availability limitations, then on or after the first Monday in February, the District is not permitted to reduce the number of spaces that the Board declared to be available for open enrollment.
 - 2. If the Board establishes any annual space-availability limitations, and except for any applications that are approved to accommodate applicants who are guaranteed approval under Board policy, the District may not approve more applications that were submitted during the regular application period than the number of spaces that the Board designated as available for open enrollment until after the statutory deadline for providing initial

notice of acceptance or denial (i.e., the first Friday following the first Monday in June). After such deadline, additional applications may be approved as outlined in the DPI rule and in a manner consistent with Board policy.

- E. The effect of establishing annual space availability limitations on current-year alternative applications. If the Board has taken action in January to limit the number of spaces that will be available for applications that are submitted under the regular application procedure for the following school year, then the District shall not approve any alternative applications for the current school year that are submitted after the date of the January school board meeting. Board policy identifies how any annual space availability limitations established by the Board in January affect alternative applications that are received in the subsequent school year.
- F. The effect of a Board decision to establish no annual space availability limitations in a given year. If the Board has taken no action in January to limit the number of spaces that will be available for applications that are submitted under the regular application procedure for the following school year, then the District may approve alternative applications for the current school year that are submitted after the date of the January school board meeting. In addition, to the extent prohibited by state law and the DPI's administrative rules, the Board will not deny any regular open enrollment applications received in the subsequent regulation application period due to lack of space.

APPLICATIONS SUBMITTED DURING REGULAR OPEN ENROLLMENT APPLICATION PERIOD

A. Nonresident Student Open Enrollment Applications

1. Submitting and Receiving Applications

- a. The parent(s) or guardian of a student who wishes to attend school in the District as a nonresident open enrollment student may apply online from the DPI website (<http://dpi.wi.gov/sms/psctoc.html>) or submit the required application to the District Administrator or his/her designee. The application may include a request to attend a specific school or program offered by the District. The application shall be submitted no earlier than the first Monday of February and no later than the last weekday in April of the school year immediately preceding the school year in which the student wishes to attend.
- b. District staff shall affix a date stamp (or a written and initialed date) to all paper applications upon receipt. Although the District may make an effort to allow an applicant to revise an incomplete application, it is the applicant's sole responsibility to ensure that his/her application is complete and timely. Any applications received prior to or after the deadline dates, other than those submitted pursuant to the alternative application procedures specified in state law, are to be returned to the applicant with a notice of the proper application dates.
- c. The District shall send a copy of any paper application received to the student's resident school board and to the DPI by the end of the first weekday following the last weekday in April. For applications filed online, these notifications are made automatically.

2. General Application Review; Approval/Denial Dates
 - a. Upon receipt of the application, it will be forwarded to the District Administrator or his/her designee. Staff shall review all of the applications using the acceptance/denial criteria outlined in Board policy, and determine which school or program, if any, the nonresident student could attend the following year if accepted.
 - (1) School and non-special education program assignments will be made after the random selection of applications by grade in any year when applicant interest exceeds grade-based space availability.
 - (2) Prior to assigning an open enrollment applicant to a school or program, the District may give preference in attendance at a school or program to residents of the District who, on a timely basis, have been identified for or expressed interest in the particular school/program.
 - b. If the District receives notification that the student is not attending the resident school district named on the application, the District may request the school or school district of attendance to provide any of the records or information about the student's special education or disciplinary status that would otherwise be provided by the resident school district.
 - c. No regular-period application that was submitted on a timely basis shall be accepted or denied by the District before May 1. The District will notify all regular-period applicants, in writing, whether their application has been accepted or denied on or before the first Friday following the first Monday in June. All notices of acceptance shall identify the specific school or program that the student may attend in the following school year. All notices of denial shall identify the reason(s) the application was denied, information about the appeals process, and, if applicable, the student's number on any waiting list(s).
3. The Method of Random Selection Used When There are More Applications than Spaces; Creation of Waiting Lists
 - a. If there is sufficient space available in the relevant grades/programs to approve all of the timely open enrollment applications that the District has received during the regular application period, regardless of whether some of the applications may be denied due to the application of other District acceptance/denial criteria, the random process identified in this section will not be used and no grade-based or program-based waiting lists will be created or maintained.
 - b. If there are more regular-period applications than spaces available for a particular grade or special education program/service, then the following selection procedure shall be used:
 - (1) Unless the District determines that the application will be denied under some other applicable criteria (i.e., other than space availability), the District will accept the applications of all students who are guaranteed space under Board policy. Eligible currently-attending students will be accepted without reducing the number of spaces that have been designated as "available" for open enrollment, while eligible siblings of currently-attending students will be assigned to and reduce the number of available spaces.

- (2) All remaining timely applications (i.e., all applications not guaranteed space under District policy), regardless of grade-level and even if the application is potentially subject to denial under other applicable acceptance/denial criteria, will be subject to a random selection process with respect to space availability. As the first step in that process, and in the presence of at least two staff members, a random order of consideration will be established using one of the following methods:
 - The individual applications will be listed and an electronic random number generator will assign a number to each application. The applications shall then be ordered numerically according to the random numbers, with the lowest number being the first-considered application and the highest number being the last-considered application.
 - Each application will be assigned a number, and the numbers will be randomly drawn/selected (e.g., using a lottery-type system). The applications will be listed by student name/number in the order in which they are randomly selected, with the first-selected number being the first-considered application and last-selected number being the last-considered application.
- (3) If, after approving the applications of all students who are guaranteed approval there is no grade-based space left in the District (i.e., all grades are full), then all remaining applications shall be placed on grade-based waiting lists, retaining the order of consideration established above (but within the applicable grade-based list). Applications denied for any additional reason (i.e., at least one reason in addition to a lack of available space) will be removed from the waiting lists before applicants are notified of their position on any waiting list. The grade-based waiting lists will thereafter be administered as described below.
- (4) If, after approving the applications of all students who are guaranteed approval there is remaining space available in one or more grade(s), the District will proceed to consider each of the applications in the order established through the random process described above. As each application is considered, and if no other basis exists for denying the application, the application will either be assigned to an available space and accepted or placed upon the appropriate waiting list(s) and denied, as indicated in the steps below.
- (5) If the District reaches a student's application in the numerical list and if there is no space available in the relevant grade for that student, the application shall be denied due to lack of available space (and for any other reason(s) that may be applicable), but the student's application will be placed on the relevant waiting list(s) in the order of consideration, subject to the following:
 - If such an application is denied due to lack of space AND for at least one other reason, then the application shall be removed from the waiting list(s) before the initial waiting lists are finalized and applicants are notified of their position on the waiting lists; and
 - If the student is a student with a disability, then before considering another applicant, the District will consider the availability of and any applicable space limitations for the special education program/services required for the

student. If the District does not offer the program/services, that determination will serve as an independent reason for denying the application. If the required program/services are offered in the District, then the following procedures shall apply:

- If space is available, the District will assign the student to the special education space, holding the space for the student as he/she waits to be selected from the grade-based waiting list. However, if the program and services required for the student involve a stand-alone special education program such that assigning the student to the appropriate program would not require assigning the student to a grade-based space, then the student's application shall be removed from the grade-based waiting list and, provided that the student's application will not be denied under any other criteria, the application is eligible for approval and the District will give immediate consideration to any sibling-applicants of the student, as further described below in these procedures.
 - If space is not available, the application will be denied due to lack of special education space, and the District will place the student's application on a special education waiting list. However, if the program and services required for the student involve a stand-alone special education program and assigning the student to a regular education classroom/program would clearly be an inappropriate placement, the student will be removed from the grade-based waiting list and need only wait for the special education space.
- (6) If the District reaches a student's application in the numerical list and if there is a space available in the relevant grade for that student, all of the following shall occur prior to consideration of the next applicant on the ordered list:
- The student shall be assigned to the available space, pending the application of remaining approval/denial criteria.
 - If the student is a student with a disability, the District will consider the availability of and any applicable space limitations for the program/services required for the student.
 - If the District does not offer the program/services, such determination will serve as an independent reason for denying the application, and the grade-based space tentatively assigned to the student will be released and made available to another applicant.
 - If the required program/services are offered in the District and space is available, then the student shall be assigned to that special education space pending the application of the remaining approval/denial criteria. If the required special education space is not available, then the student will be added to the appropriate special education waiting list and the grade-based space assigned to the student will be held for the student. However, if it is clear that the special education program and services required for a student under this paragraph involve stand-alone special education such that

assigning the student to the relevant special education program would not require assigning the student to a grade-based space, then the grade-based space tentatively assigned to the student will be released and made available to another applicant.

- Provided that the District has concluded that there is space available for the student whose application is under consideration and that such student's application will not be denied pursuant to any of the other applicable acceptance/denial criteria, the District shall give immediate consideration to the application(s) of any remaining sibling-applicants in the same family who applied for open enrollment at the same time and whose application has not yet been considered. If there is a space available for the sibling (looking first at the student's grade and then, if applicable, at special education spaces), then the sibling shall be assigned to the space(s) pending an analysis of all applicable remaining approval criteria. However, if there are no remaining spaces available to accommodate the sibling's application, then the sibling's application shall be denied due to lack of available space (and for any other reason(s) that may be applicable), but the sibling's application will be placed next in line on the relevant waiting list(s).
- (7) Before finalizing the assignment of space, the list of applications that will be accepted, and the initial waiting lists, the District will consider whether any application that has tentatively been assigned to any space or placed on any waiting list is subject to denial due to the application of any criteria other than a lack of grade-based or special education space. If so:
- Any such application that has tentatively been assigned to an available space will be denied for those separate reason(s), and the space tentatively assigned to the application will be assigned to an applicant who is listed first on the applicable waiting list.
 - Any such application that was tentatively placed on a waiting list shall be denied for both the space availability reasons and for those separate reasons(s) and removed from the waiting list before applicants are notified of their position on the waiting lists.
- (8) For any otherwise-eligible applicant who is a student with a disability who has been assigned a grade-based space but who is on a special education waiting list, or vice-versa, the student will initially receive notice of denial due to lack of available space, but the District will hold the space (either general or special education) that has been assigned to the student until either a space on the other waiting list becomes available for the student (at which point the student will be notified that he/she may attend school in the district) or the District reaches the end of the period for which it maintains waiting lists (at which point the space that has been held for the student shall be assigned to the next applicant, if any, on the applicable waiting list).
- (9) After completing the above steps, the assignment of available spaces will have been completed and the initial open enrollment waiting lists will be considered finalized. Appropriate and timely written notices of acceptance or denial will be

provided to all applicants and the waiting lists will be administered as described below.

- (10) Exception when Space Limitations Exist only in Special Education. If there is sufficient space available, by grade, to accommodate all of the timely applications received during the regular application period, but space limitations exist in one or more special education areas, the random process described above may be limited to special education and to the creation of special education waiting lists.

4. Administration of Waiting Lists

- a. As any spaces become available, applications that have not been denied for any reason other than lack of space will be accepted from the waiting list(s). The District may accept students from a waiting list until August 31st or the last work day in August of each school year.
- b. Parents and guardians will be notified in writing if a space becomes available, including notification of the school or program to which the student has been assigned and the procedures and date by which the parent or guardian must notify the District if the student will attend school in the District. Verbal notice may be provided to the parent or guardian who submitted the application, but verbal notice will be confirmed through a written communication.
 - (1) If the District notifies a parent or guardian of acceptance on or after 10 days prior to the last Friday in June, the parent or guardian shall have 10 calendar days to respond to the placement offer provided the student is also in attendance by the third Friday in September; otherwise, the parent or guardian must respond to the notice no later than the last Friday in June.
 - (2) If the parent or guardian does not respond in the allotted time, the student's application will be placed at the end of the waiting list and the space will be offered to the next student on the waiting list.
- c. For any applicant who is a student with a disability who has been assigned to both a grade-based waiting list and a special education waiting list, if the student is selected from one such list but not from the other(s), the District will hold the space which became available for the student on a list until either a space on the other waiting list(s) becomes available for the student (at which point the student will be notified that he/she may attend school in the district) or the District reaches the end of the period for which it maintains waiting lists (at which point the space that has been held for the student shall be assigned to the next applicant, if any, on the applicable waiting list).
- d. To simplify the administration of the waiting lists, the District may contact the parent or guardian who submitted the application to determine whether they wish to voluntarily be removed from the waiting list(s). If the parent or guardian indicates that they would like to be removed, the District will provide written confirmation of the decision/action to the parent or guardian.

5. Parent Notification and Enrollment

- a. The nonresident student's parent(s) or guardian(s) shall notify the District Administrator or designee of the student's intent to attend school in the District in the following school year on or before the last Friday in June following receipt of the notice of acceptance, except as noted above for nonresident students accepted for enrollment from a waiting list.
- b. Annually by July 7, the resident district school boards shall be notified of the names of the students from the resident district who will be attending school in the District the following school year. For students accepted for open enrollment from the waiting list after July 7 that choose to attend school in the District, this resident school district notification will be provided as soon as possible after getting confirmation of such attendance from the student's parent or guardian.
- c. The District will take the steps necessary to properly enroll a student who chooses to attend school as a nonresident open enrollment student.
- d. Student Records. The District will limit its requests for student records (or information from student records) and its sharing of records with the resident district to the records and information that may be lawfully requested or disclosed under applicable law and DPI rules.

B. Resident Student Open Enrollment Applications

1. Upon receipt of any paper copy of a resident student's application to attend a school or program in another public school district, school office staff shall affix a date stamp (or a written and initialed date) and forward it to the District Administrator or his/her designee for review and processing.
2. By the first Friday following the first Monday in May, the District shall provide the nonresident school district(s) to which the student applied appropriate notice of the resident student's special education and/or disciplinary status, including providing copies of any records that the District is permitted/required to release. If the applicant does not attend school in the District and the District has no records for the student, the District will notify the nonresident school district(s) of the student's non-attendance.
3. All applications, those received online and paper applications, shall be reviewed by District staff using the acceptance/denial criteria outlined in Board policy. If the application is denied, the applicant and the nonresident school board shall be notified, in writing, that the application has been denied. This notification shall be made on or before the second Friday following the first Monday in June. The notice shall include the reason(s) for the denial and information about the appeals process.
4. Special Procedure for Resident Open Enrollment Students Not Enrolled in the District. To the extent necessary to allow for the appropriate accounting of the District's student membership and appropriate state aid transfers, students who reside in the District but who have been enrolled in a private school or home-based private educational program and students who did not reside in the District at the time of applying for full-time open enrollment in another school district must formally enroll in the District prior to attending school in another public school district under the full-time open enrollment program.

5. Student Records. The District will limit its requests for student records (or information from student records) and its sharing of records with the nonresident district to the records and information that may be lawfully requested or disclosed under applicable law and DPI rules. The District shall ensure that the records of a resident student who accepts open enrollment and elects to attend school in a nonresident district are sent promptly to the nonresident district.

APPLICATIONS SUBMITTED UNDER ALTERNATIVE OPEN ENROLLMENT PROCEDURES

- A. Reason(s) for Alternative Application – A parent or guardian of a student who wishes to attend school in a nonresident school district may submit an open enrollment application that is in addition to or in lieu of any application(s) submitted in connection with the regular open enrollment application period if the application is for the current school year, the student meets one of the following criteria, and the parent or guardian identifies and describes the criteria that the student meets in the application:
 1. The resident school board determines that the student has been the victim of a violent criminal offense in a school in the resident school district. The application must be made within 30 days of the resident school board’s determination.
 2. The student is or has been a homeless student in the current or immediately preceding school year.
 3. The student has been the victim of repeated bullying and harassment and all of the following apply: (a) the student’s parent or guardian must have reported the bullying or harassment to the school board or designee under a bullying/harassment complaint process; and (b) in spite of action taken by the board or designee the repeated bullying and harassment continues.
 4. The place of residence of the student’s parent or guardian and of the student has changed as a result of military orders. The application must be made within 30 days of the date on which the military orders changing the place of residence were issued.
 5. The student moved into Wisconsin. The application must be made within 30 days after moving into the state.
 6. The student’s residence has changed as a result of a court order or custody agreement or because the student was placed in or removed from a foster home or with a person other than the student’s parent. The application must be made within 30 days after the student’s change in residence.
 7. The student’s attendance in a school in the nonresident school district is considered to be in the best interests of the student. The application must explain the reasons for requesting this exception and why attendance at the nonresident school district is in the best interests of the student.
- B. Application Review and Approval Process
 1. When the District receives an open enrollment application that has been submitted under the alternative open enrollment criteria outlined above, whether it is submitted by a nonresident student or a resident student, the date any paper application was received

shall be affixed to the application (or otherwise recorded) and the application shall be forwarded to the District Administrator or his/her designee for review and processing.

- a. If the application involves a nonresident student seeking to attend school in the District under open enrollment, the District will:
 - (1) Immediately send a copy of any paper application received by the District to the student's resident school district, or, if applicable, the student's anticipated resident school district;
 - (2) Work with the resident district (or the anticipated resident district) identified in the application to determine where the applicant is currently attending school, and to determine from which school the District will receive any relevant special education records (e.g., the student's current IEP) and/or disciplinary records (e.g., expulsion records). If the applicant is not currently attending school in the resident district, the District will request such records from the school or school district the student is attending or most recently attended; and
 - b. If the application involves a resident student who is attending, or who previously attended school in the District, then within 10 days of receiving a copy of the application, the District shall provide the nonresident school district appropriate notice of the resident student's special education and/or disciplinary status, including providing copies of any records that the District is permitted/required to release. If the applicant does not attend school in the District and the District has no records for the student, the District will notify the nonresident school district(s) of the student's non-attendance.
2. District staff shall review the application using the acceptance/denial criteria outlined in Board policy and in this rule. The District Administrator or his/her administrative-level designee is authorized to make the acceptance/denial decision for the District and to direct the sending of the appropriate notifications.
 - a. The District will deny the alternative application of a nonresident student when required by state law or DPI rule, and the District may also deny such an application:
 - (1) due to lack of available space;
 - (2) under any of the acceptance and denial criteria established in Board policy that apply to an application submitted during the regular open enrollment application period; or
 - (3) if the application relies on the best interests of the student criteria and the District determines that open enrollment is not in the student's best interests.
 - b. The District will deny the alternative application of a resident student when required by state law or DPI rule, and the District shall also deny any such application if it determines that:
 - (1) the criteria relied on by the parent or guardian to submit the application (including the "bests interests" criteria) do not apply to the student; or
 3. If the application involves a nonresident student seeking to attend school in the District, then the District will notify the applicant, in writing, whether the application has been

approved or denied no later than 20 calendar days after the application was submitted. If the District fails to issue a timely notice of acceptance of a nonresident alternative application to the parent or guardian, the application is considered denied.

- a. If the application has been denied, the notification shall include the reasons for the denial and information about the appeals process. To the extent consistent with state law and District policy, initial acceptance of an application may be subject to revocation.
 - b. If the District has approved the open enrollment application of a nonresident student, the notification provided to the applicant shall identify the specific school or program that the student may attend. A nonresident student accepted for enrollment may immediately begin attending the assigned school or program in the District and shall begin attending the school or program no later than the 15th day following receipt of the notice of acceptance (or another date mutually agreed upon by the District and the student's parent or guardian). If the nonresident student has not enrolled in or attended school in the District by the relevant deadline, the District may notify the student's parent or guardian, in writing, that the student is no longer authorized to attend school in the District.
 - c. To the extent that there is a delay in the District's receipt of any relevant disciplinary records from another school or school district, the District will attempt to review and act upon such records promptly. If necessary, the District will deny the application due to an inability to sufficiently review such records. However, to the extent permitted by DPI, the District may revisit such a denial if the relevant records/information are provided within a reasonable time period after the 20th calendar day following the submission of the application.
4. If, for purposes of the application, the District is identified as the resident school district, the District shall notify the applicant whether the application has been approved or denied in accordance with any deadlines established by state law or DPI rule. Normally, the District will issue such notifications no later than 20 days after the date that the application was submitted. In addition:
- a. It is the applicant's responsibility to provide sufficient information to enable the District to determine that at least one of the bases for an alternative application applies to the student. However, prior to denying an alternative application on the basis that the parent or guardian did not provide enough information to allow the District to assess whether the student has been the victim of repeated bullying or whether open enrollment would be in the best interests of the student, the District shall offer the parent or guardian an opportunity to provide additional information.

If a resident student's alternative application is denied, the notification shall include the reason(s) for the denial and information about the appeals process.

APPEALS OF OPEN ENROLLMENT DECISIONS

The student's parent(s) or guardian(s) may appeal a District decision regarding full-time open enrollment to the DPI by following the deadlines and other procedures established by the DPI, except as otherwise specifically provided under state law or under DPI rules.

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