

## **SCHOOL DISTRICT OF MERTON OPEN ENROLLMENT POLICY**

The Merton Community 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, all as amended from time to time. More specifically, the District, in administering its participation, (a) will harmonize to the extent possible sections 118.145(4), 118.51, and 118.52; (b) will give priority to its resident students regarding intra-district open enrollment opportunities; and (c) will take account, as appropriate, of individual rights under the Wisconsin and United States Constitutions.

### **Full-time Open Enrollment**

- I. Application Procedures for Nonresident Students - Applications from nonresidents for full-time open enrollment into a district school must be (a) submitted on the form provided by the Department of Public Instruction (“DPI”) and (b) received between the first Monday in February through the last week day in April. Untimely applications will not be processed nor will the review process be delayed by failure to submit supporting documentation. Copies of all nonresident pupil applications will be sent to the resident school district of each nonresident pupil and the DPI no later than May 30. Part-time open enrollment is not available to resident or nonresident pupils in the Merton School District.
- II. Timetable for Decisions on Applications - District decisions on full-time open enrollment applications will occur on or before the second Friday following the first Monday in June.
- III. Procedure for Processing of Open Enrollment Applications - If there are more applications than spaces available, the Board will fill the available spaces by random selection, provided that first priority will be given to pupils already attending District schools and their siblings.

Guarantees of Acceptance are given to: students currently attending Merton Schools at the time of application and siblings of students attending Merton Schools at the time of application. Students guaranteed attendance must still apply in correspondence with state procedures.

IV. Decisional Criteria for Nonresident Applications - Decisions on nonresident open enrollment applications will be based only on the following criteria:

- A. Whether there is space available for Nonresident Transfer Students. No later than May 1 of each school year, the District Administrator will report to the School Board the space available for the next school year in the schools, programs, classes and grades of the District for Open Enrollment students. In determining such space available, the District Administrator shall consider any or all of the following:
1. District practices, policies, procedures or other factors regarding class size ranges for particular programs or classes. The district's recommended class sizes are:
    - a. 4K – maximum of 18 students
    - b. 5K-2 – maximum of 23 students
    - c. 3-6 – maximum of 25 students
    - d. 7-8 – maximum of 28 students
  2. District practices, policies, procedures or other factors regarding faculty-student ratio ranges for particular programs, classes or buildings.
  3. Enrollment projections for the schools of the District which include, but are not limited to, the following factors: the likely short and long-term economic development in the community, projected student transfers in and out of the District, preference requirements for siblings of nonresident Open Enrollment students, the required length of K-12 attendance opportunities for Open Enrollment students and current and future space needs for special programs, laboratories (e.g. in technology or foreign languages) or similar district educational initiatives.
  4. The number of non-resident students currently attending the schools of the district for whom tuition is paid by another District under 121.78 (1)(1), Wis. Stats.
  5. The number of resident home schooled or private school students likely to attend the schools of the district in accordance with 118.415, Wis. Stats.
  6. The number of resident students likely to change schools on a full-time or part-time basis under the district's intra-district Open Enrollment policy.
- B. 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.

- C. Whether the nonresident pupil has been expelled from any school district within the current school year or the two (2) preceding school years.

The District may not accept any nonresident pupil for full-time open enrollment in the District who has been expelled from any Wisconsin school district within the current school year or the two preceding school years, and may deny the application of a nonresident pupil who is involved in any pending disciplinary proceedings, based upon the preceding items. The District will review the facts and circumstances behind the disciplinary action before making a determination.

- D. Whether any disciplinary proceeding involving the nonresident pupil, based on any of the following activity, is pending:

1. 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 any school property by means of explosives;
2. Engaging in conduct while at school or under supervision of a school authority that endangered the health, safety or property of others;
3. 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 employee of the school district or member of the school board;
4. Possessing a dangerous weapon (as defined in 939.22(10), Wis. Stats.) while on school property or under school supervision.

*(Note: The Board may request a copy of a nonresident pupil's disciplinary records from the resident school board).*

If any of the preceding disciplinary actions occur after the nonresident pupil has been accepted for enrollment and prior to the beginning of the school year in which the student first attends school in the District under open enrollment, the student's acceptance for open enrollment may be withdrawn. To the extent authorized by law, the District may also not accept a nonresident pupil for open enrollment who is under expulsion for any reason from any public school or independent charter school in Wisconsin or out-of-state public school during the proposed period of open enrollment.

- E. Whether the special education program or related services described in the nonresident pupil's individualized education program ("IEP"), if any, are available in the District.

An open enrollment application shall be denied if the District determines that the special education program or related services described in the nonresident pupil's individualized education program (IEP), if any, are not available in the District or that there is no space available in the special education program or services identified in the student's IEP.

- F. Whether there is space available in the District for the special education program identified in the nonresident pupil's IEP, after consideration of class size limits, pupil-teacher ratios, and enrollment projections.

- G. Whether the nonresident pupil has been screened by the resident school board to determine if there is reasonable cause to believe that he/she is a child with exceptional educational needs ("EEN").

- H. Whether the resident school board has been informed that the nonresident pupil may have exceptional education needs, but has not yet been evaluated by a multidisciplinary team.

An open enrollment application shall be denied if the nonresident pupil has been referred to the resident school district for a special education evaluation, but has not yet been evaluated by an IEP team. Assuming other acceptance criteria are and continue to be met, the District may reconsider a denial under this criteria if the IEP is completed, forwarded to the District, and reviewed by the District prior to the close of the period during which applications would normally continue to be reviewed or accepted from any waiting list.

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

- I. Any other reasons that may be set forth in § 118.51(5) of the Wisconsin Statutes, as amended from time to time.
- J. Truancy-Related Criteria. An open enrollment application may be denied if the non-resident pupil has been habitually truant during any semester of attendance at a District school in the current or previous school year. Once enrolled as an open enrollment student, if a nonresident student is habitually truant from the District during either semester in the current school year, the District may prohibit the student from attending school in the District under

the full-time open enrollment program beginning in the succeeding semester or school year.

V. Procedure for Evaluating Applications by District Residents to Transfer to Another District - The Board will follow the following procedure and state law in evaluating applications by residents for transfer to another district.

The Board will consider only the following criteria for resident applications:

- A. Denial of Attendance in Event of Undue Financial Burden. The Board of Education reserves the right to deny attendance in another public school district if the cost of a special education program(s) or related services(s) creates an undue financial burden, in accordance with the procedures and subject to the criteria set forth under § 118.51(12)(b) of the Wisconsin Statutes. *(Note: Notwithstanding the Board's approval of a resident pupil's application, the Board may withdraw approval if, after the District pupil has begun in the other school district, the IEP as implemented by the nonresident school district would impose an undue financial burden on the District.)*
- B. Transportation. The parents or guardians of resident students attending school in another school district under the full-time open enrollment program will be responsible for student transportation, unless the District is required by law to provide transportation to the student(s). Merton Community School District shall not be responsible for the transportation of resident pupils to and from a nonresident school district unless required by law.

VI. Notice of Decisions - Written notice of acceptance or denial of both nonresident and resident applications must be sent to all applicants on or before the first Friday following the first Monday in June. Notice of denial will include a reason for the determination.

- A. Additional Notices when a Nonresident Pupil is Accepted  
If the Board approves an open enrollment application on a nonresident pupil it will also send the following notices: 1). written notice to the applicant no later than the 2nd Friday following the first Monday in June of the specific school or program that the applicant may attend during the following school year; and 2). notice to the resident school board no later than July 7 stating the name of the pupil.

The parents or guardians of an accepted nonresident pupil must notify the Board no later than the first Friday following the first Monday in June of the pupil's intent to attend school in the District during the following school year.

- B. **Additional Notice if a Resident Pupil's Application to Another District is Denied** - If the Board denies a resident's application to attend another district, it shall send a copy of the notice of denial to the other district on or before the first Friday following the first Monday in June.
- VII. **Transportation** - The parents or guardians of a pupil attending a nonresident school district will be solely responsible for providing transportation to and from the school site, unless the nonresident pupil is an exceptional education student and transportation is required by his/her IEP.
- VIII. **Tuition Payment** - The Board shall pay to the nonresident school board tuition calculated under 121.83 Wis. Stats., for District EEN pupils attending school in the nonresident school district.
- IX. **Rights and Privileges on Nonresident Pupils** - Nonresident pupils attending school in the District on a full-time basis will have all of the rights and privileges of resident pupils and will be subject to the same rules and regulations as resident pupils.
- X. **Waiting List**  
The school board will establish a waiting list if more applications are received for a particular grade or program than there are spaces available. The waiting list will consist of pupils whose applications were rejected under section IV of this policy. The procedure detailed in this section supplements procedures established in other sections of this policy.
  - a. The numbered waiting list will be established following established acceptance and rejection criteria on a random selection process. Guarantees and preferences detailed shall be followed prior to establishing the waiting list through a random process.
  - b. The denial notice sent to parents whose application for their child is put on the waiting list will include the child's spot on the waiting list.
  - c. If a spot becomes available in a class or program that has a waiting list, the rank order established on the waiting list shall be followed. The District Administrator shall be required to notify the parents in writing of the availability of the spot.
  - d. Parents shall have 10 calendar days from the date of receipt of the Xc. To notify the district whether the child will attend Merton Schools through the Open Enrollment program. This date will be identified in the notice of opening referenced in Xc. As part of the Xc. Notice, parents will be informed that if the parent does not respond within the specified time period, the acceptance will be rescinded, and the space will be offered to the next applicant on the waiting list.
  - e. The last date at which the Merton School District will offer applicants a space from the waiting list is the third Friday in August.

## **XI. Alternative Applications Under Certain Circumstances**

The Board of Education shall review and act upon applications for open enrollment transfers under the alternative provisions set forth in § 118.51(3m) of the Wisconsin Statutes pursuant to the rules and guidelines set forth under the statute. Unlike standard applications, such applications may be submitted to resident and nonresident school districts outside of the time period established for standard applications, which begins on the first Monday in February and ends on the last day in April of the school year immediately preceding the school year in which a pupil wishes to transfer.

Best Interests” Determinations Under the Alternative Open Enrollment Application Criteria and Procedures. If a parent or guardian applies for open enrollment under the alternative open enrollment application criteria and procedures and relies on the “best interests of the student” criteria, the District shall review the information and rationale provided by the parent(s) or guardian and make a determination as to whether the District agrees with the parent(s) or guardian that attending school in the District pursuant to the application is in the student’s best interests. If the District determines that attendance would not be in the student’s best interests, the application shall be denied on that basis.

## **XII. Appeals**

A parent or guardian may appeal to the Wisconsin Department of Public Instruction (DPI) whenever a district denies a student’s open enrollment application or makes other decisions specified in state law affecting the student’s eligibility to open enroll, except as otherwise specifically provided under state law or DPI rule. Such appeals must be filed using the deadlines and other procedures established by the DPI.

## **Administrative Guidelines**

The District Administrator shall be responsible for developing administrative guidelines to implement this policy.

## **Annual Review**

This policy will be reviewed on an annual basis prior to January 30.

## **Wisconsin Statutes**

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### **Chapter 115, Subchapter V**

- Section 115.787 [individualized educational programs for students with disabilities]  
Section 118.13 [pupil discrimination prohibited]  
Section 118.16(1)(a) [definition of habitual truant]  
Section 118.51 [full-time public school open enrollment]  
Section 118.52 [part-time public school open enrollment]  
Section 120.13(1)(f) [authority to deny enrollment of student during the term of expulsion]  
Section 121.54(3)(10) [transportation for children with disabilities; transportation for non-resident students]  
Section 121.58(2)(a) [state aid for transportation]

## **Wisconsin Administrative Code**

- PI 9 [Pupil Non-discrimination]  
PI 36 [state rules governing inter-district open enrollment]

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