



2012-2013

Q & A on Statewide Open Enrollment

Basic questions

1. Do we have to use the Minnesota Department of Education form for Open Enrollment, and if so, may we modify it? Yes, Minnesota school districts must use this form. No, the form may not be modified nor may additional information be asked of families at the point of open enrollment. Minnesota Statutes section 124D.03, subd. 3, requires that all districts use the form provided by MDE. MDE does not allow any modification of this form, the instructions, or use of its logo or name on any alternate form.

2. Do we need to provide this form if we do not seek any (or any more) open enrollees in our district? Yes. Minnesota state law requires that this form be available as well as information on your district to all who request it. If your district is closed to open enrollment at the requested grade level, the form should still be provided and processed with the denial indicated according to a legally allowable reason. (Minn. Stat. § 124D.03, subd. 10.)

3. Is an open enrollment form valid without a parent or guardian signature?
No.

4. When DOESN'T the January 15 deadline apply in using a standard open enrollment form? State law waives all deadlines for students moving in or out of any district that receives Statewide Integration Revenue. Students may apply at any time in order to start school immediately or in the subsequent school year. Of Minnesota's 237 districts, 116 receive integration revenue. Because this represents almost all large districts, most students have no deadlines and may open enroll at any time to begin class at any time. (Minn. Stat. § 124D.03, Subd. 4, Desegregation District Transfers.) State law also extends deadlines when families have recently moved. (Minn. Stat. § 124D.03, subd. 7.)

Civil rights questions

5. Are there legal and human rights issues in using modified forms? Yes. Districts should not use modified forms both because the law requires all districts to use the form provided by the Department of Education but also because modifying and adding fields presents civil rights concerns. The new MDE Enrollment Options form complies with the Minnesota Human Rights Act, Minnesota Statutes section 363A.13, subds. 2–4, which specifically protects the rights of Minnesota students in educational settings, including ways in which schools select, exclude and admit students related to race, gender and disability. The new Statewide Enrollment Options form also presents common criteria for Minnesota's school choice applications including those that charter schools must develop. See related memo to Minnesota's charter school community from Commissioner Alice Seagren dated July 26, 2007. ***Districts may obtain additional information necessary for MARSS, for records transfer and for new student registration after a classroom seat has been offered but before the student starts class.***

6. Can our district limit enrollment or close some special education services to nonresidents? No. Closing special education services causes federal civil rights issues related to discrimination against students with disabilities and violates the state enrollment options law. Districts may close grade levels but not keep a grade level open and then close off certain special education services for that grade. See

November 1998 memo to all school superintendents from MDE Assistant Commissioner Morgan Brown on this matter.

7. Can open-enrolled students qualify for homebound instruction? Yes. Open-enrolled students have the same rights to homebound instruction as resident students. If impractical because of distances for the nonresident district to handle this in the usual manner, the nonresident may contract with another district to serve the student with appropriately licensed teachers.

8. What if our district offers a spot to a family at one site, then learns of a student's special needs that are typically served at an alternate site in the district? The student may be reassigned if this is where the district routinely serves resident students with these needs, as determined by district policies.

9. Can we gender balance applications in admission lotteries? No. Taking into account a student's gender – or even having it on the application form – violates the Minnesota Human Rights Act, Minnesota Statutes section 363A.13, subds. 2-4.

Capacity questions

10. Can our district close a school site to open enrollment? Yes. School boards may set capacities for how many students at a particular grade level may be served by a site. (Minn. Statute § 124D.03, subd. 6.) Applications that are received before capacity is reached must be accepted without regard to the individual characteristics of the student other than grade level. School boards may not close special education services related to any special needs that open-enrolled students may bring.

11. How much weight must districts give the school site preferences that families list on their enrollment options form? Districts set pre-established capacities per grade level per site that have been established by district administration and approved by the local school board. Applications must be considered based on capacity and not the individual traits of a student. When a family's first choice of placement cannot be met due to the grade level at that site closing, the second preference listed should be considered, and so on, until the family has received the first open placement at the appropriate grade level according to the family's designated preferences.

12. How long can a waiting list last and how soon can students be placed on one? Waiting lists, if needed, should be re-established after the lottery that follows each January 15 deadline. Families may not retain a waiting number from a previous year. Waiting lists should not be established before January 15 in lieu of lotteries; open enrollment is **NOT** first-come, first-served prior to the January 15 application deadline.

Transportation questions

13. What transportation rights come with open enrollment?

Families have the right to have their student transported from the border of the nonresident district to school site assigned. Students whose individual education plan requires door-to-door transportation must receive door-to-door transportation across district borders.

Nonresident districts have a legal right, if they so choose, to provide bus transportation in the borders of other districts in order to transport open-enrolled students. (Minn. Stat. § 123B.88,

Subd. 6.) An example of this occurs with The Choice is Yours program, which is a integration effort of the Minneapolis Public Schools with nine suburban area districts.

Nonresident Agreements questions

14. When are nonresident agreements required? Nonresident agreements are required when *neither* district receives Statewide Integration Revenue and the student's application is received after January 15, and no special circumstances (such as a recent move by the student's family) apply. Nonresident agreements differ from regular open enrollment in that a nonresident agreement must first be approved by the resident district, then forwarded to a nonresident district.

The family is eligible to complete a Statewide Enrollment Options form at the same time they apply for a Nonresident Agreement; the enrollment options would be effective in the school year following the next January 15 deadline. (If applications for that school year exceeded spots, then the family's application would be included in the lottery.)

15. When shouldn't a Nonresident Agreement Form be used? Nonresident agreements are nearly always inappropriate if *either* the sending or receiving district receives Integration Revenue. Exceptions would be if the district was making an exception to allow an enrollment of a student who had not kept a one-year enrollment commitment to another district (Minn. Statute § 124D.03, subd. 5). The other exception to this is if the family's – not the district's – stated preference is a short-term enrollment in the nonresident district with no desire on the part of the family to stay for subsequent school years.

16. What if a student's application was inappropriately completed on a Nonresident Agreement form rather than a Statewide Enrollment Options Form? The paperwork should be re-completed on the correct form.

17. Could our district avoid the restrictions on allowable data fields on the MDE enrollment options form by using a nonresident agreement instead of a state form?

No. Minnesota's Human Rights Act, Minnesota Statutes section 363A.13, subds. 24 applies to nonresident agreements as well as standard open enrollment. Minnesota Statutes section 124D.03, subd. 6 further limits factors that may be considered in a Minnesota interdistrict enrollment options program.

18. Can our district take a minimum number of students on an open enrollment basis and then more on a nonresident agreement basis so that the district has more options to remove students at the end of the year?

No. If a district is at capacity for open enrollment then it also at capacity for nonresident agreements at the same grade level. Furthermore, districts cannot use the nonresident agreement provision – which is a waiver of a deadline – as a means of circumventing state law regarding what factors may be considered in the student application process. Minnesota Statutes section 124D.03, subd. 12 describes the specific situations when an open enrollment agreement can be terminated by a district, including habitual truancy.

Other questions

19. Can students who reside in other states open enroll in Minnesota schools? No. However, students who live in South Dakota-Minnesota border districts have reciprocity under Minnesota Statutes section 124D.041. Districts may also admit students who are not Minnesota residents if the families pay tuition. Districts may not allow students, including those of faculty,

who reside in other states to attend without payment of tuition because this indirectly charges the cost of an out-of-state student to Minnesota taxpayers.

20.How do pre-kindergarten students who are eligible for early childhood special education access the statewide enrollment options program? Students must first have an assessment in their resident district indicating that they are in need of services. They do not need to have an IEP developed. They then use the standard open enrollment form.

21.How does open enrollment work for families who are seeking early entrance to kindergarten for their child? State law requires that children be age five by September 1 to be in public school kindergarten programs unless the student is approved for early kindergarten entrance by the enrolling district according to that district's locally established policies. Families need to work with the non-resident district to learn the locally established requirements for early entrance to kindergarten. Only when those requirements have been met, may the open enrollment form be used to allow enrollment for early entrance to kindergarten subject to the nonresident districts regularly established policies and limitations.

22.How is a student coded for MARSS reporting in an integration district? All students who have enrolled in a school district through open enrollment, whether or not either district receives integration funding, are reported with a MARSS State Aid Category (SAC) 01. Students who are enrolled under a Nonresident Agreement are reported with SAC 11. If the family also completed a Statewide Enrollment Options form, the students SAC would change from 11 to 01 once the Statewide Enrollment Options is effective. Students must be a resident of Minnesota to transfer to a Minnesota school district through open enrollment or Nonresident Agreements.