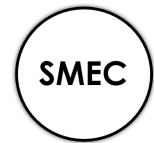


509 ENROLLMENT OF NONRESIDENT STUDENTS

Adopted: August 2022



I. PURPOSE

The education 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 education 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 governing board resolution and provided that:
1. space is available for the applicant under enrollment cap standards established by governing board policy or other directive; and
 2. in considering the capacity of a program, the education 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 education district; or (b) the number of education 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 education 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 education 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 in length, at school or a school function;
 2. possessing or using an illegal drug 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 education 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."

F. Exclusion

1. Administrator's initial determination. If an education 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 education district policy, the administrator will transmit the application to the executive director with a recommendation of whether exclusion proceedings should be initiated.
2. Executive Director's review. The executive director may make further inquiries. If the executive director determines that the applicant should be admitted, he or she will notify the applicant and the governing board chair. If the executive director determines that the applicant should be excluded, the executive director 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 education district reserves the right to initiate exclusion procedures pursuant to the Minnesota Pupil Fair Dismissal Act as warranted on a case-by-case basis.

G. Termination of Enrollment

1. The education 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 a 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.

2. The education 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.
3. 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 education 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 education 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 executive director or the executive director's designee. The executive director or the executive director's will make the final determination as to the residency status of the student.

- H. Notwithstanding the requirement that an application must be approved by the board of the nonresident district, a student who has been enrolled in a 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 education 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.

Legal References: Minn. Stat. § 120A.22, Subd. 3(e) (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

WL 3111963 (Minn. Ct. App. 2005) (unpublished)

Cross References:

MSBA/MASA Model Policy 506 (Student Discipline)

MSBA/MASA Model Policy 517 (Student Recruiting)

MSBA Service Manual, Chapter 5, Various Educational Programs

SMEC Organizational Chart