

Summers County Board of Education

Scope: This policy is established by the Board to allow nonresident students to enroll in any school within the district.

Authority: W.Va. Code §18-5-16; W.Va. Code §18-5-16a; WVDE Policy 7212.

Adopted: September 8, 1973.

Amended: May 10, 1984; October 8, 1987; August 13, 1992; December 2, 2004; June 27, 2007; November 19, 2009; August 8, 2017; February 14, 2019; June 13, 2023.

Reviewed: April 25, 2023; May 9, 2023.

OPEN ENROLLMENT

Purpose

This policy establishes open enrollment for nonresident students seeking to attend a school within the Board's school district.

Per Board Policy V-C-2 (School District Attendance Areas), the Board has established attendance zones within the county to designate schools within its district that resident students typically attend and the Board may permit transfers of resident students to attend different schools than they typically attend.

Definitions

For the purposes of this policy, unless a different meaning clearly appears from the context:

- “Nonresident student” means a student who resides in West Virginia and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.
- “Open enrollment” means to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in W.Va. Code §18-5-13(f)(1)(C).
- “Receiving county” means the county in which the nonresident student is seeking to enroll.
- “Sending county” means the county of residence of the nonresident student.
- “Open enrollment application” means the application a nonresident student submits to the receiving county to enroll and attend a school within the receiving county's jurisdiction.

Preliminary Understandings

A nonresident student seeking enrollment in Summers County Schools will not be charged tuition.

Approval from the county board where the nonresident student resides and/or transfers from is not necessary.

A request by a nonresident student to enroll in Summers County Schools will not be refused because the nonresident student is transferring from a private, parochial, church, or religious school holding an exemption approved pursuant to W.Va. Code §18-8-1(k): *Provided*, That nothing in this paragraph shall be construed to allow a county board to give an enrollment preference to a student transferring from a private, parochial, church, or religious school holding an exemption approved pursuant to W.Va. Code §18-8-1(k) of this code.

All enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)) shall be complied with by the Board.

Nonresident students who make application under this open enrollment policy shall not be subject to discrimination on the basis of residential address or any potential disability status.

Application Process

A nonresident student must complete and correctly submit an open enrollment application for enrollment in Summers County Schools.

Open enrollment applications by nonresident students must be submitted on or before June 30th to be considered for enrollment during the upcoming school year.

Open enrollment applications by nonresident students received after June 30th and/or during the academic year for which enrollment is sought will be considered on a case-by-case basis at any time during the academic year, so long as all other requirements are met including that the student has not previously transferred within the same school year.

Open enrollment preference shall be given to:

- Siblings of students already enrolled through the open enrollment policy;
- Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;
- Students who are children, grandchildren, or legal wards of employees;
- Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time;

- Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

Denial of Open Enrollment Application

An open enrollment application by a nonresident student may only be denied by the Board for the following reasons:

- due to lack of grade level capacity in the receiving county (“lack of grade level capacity” means if approval of the transfer request would result in the receiving county being required to employ additional staff or compensate a classroom teacher pursuant to W.Va. Code §18-5-18a);
- lack of programs or services due to areas identified in the Board’s critical need policy; or
- the commission of a Level 3 or Level 4 inappropriate behavior as defined by West Virginia Board of Education Policy 4373 in the last year.

The denial of an open enrollment application shall:

- be in writing;
- sent to the parent or guardian of the nonresident student and the West Virginia Department of Education within three business days of the decision;
- include the reason and explanation for the denial; and
- include information on appealing the denial of the application.

If a nonresident student fails to fill out or submit an open enrollment application correctly, an explanation of ways in which the application may be corrected and submitted for necessary approval shall be provided to the nonresident student.

Transportation

Once a nonresident student has complied with the procedure for obtaining authorization to attend school in Summers County Schools, the Board may, but is not required to, provide an adequate means of transportation to such nonresident student’s residence, subject to the following:

- the Board is not required to uniformly provide transportation to nonresident students, and
- the Board may consider whether a nonresident student meets the eligibility criteria for free or reduced price lunch and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. § 1758).

If the nonresident student is a student with disabilities and has an individualized education program that specifies that transportation is necessary for fulfillment of the program, the Board shall provide:

- transportation to and from the school the nonresident student is attending and the nonresident student's residence, or
- transportation to and from an agreed upon pickup point on a regular transportation route within the receiving county, or
- payment in lieu of transportation for the total miles traveled each day to and from the school the nonresident student is attending and the nonresident student's residence.

Appeals

Any nonresident student whose open enrollment application is denied may file an appeal with the State Superintendent.

The State Superintendent must receive the transfer application appeal within 30 days of the date the receiving county denied the transfer application.

After reviewing the transfer application and the receiving county's denial decision, the State Superintendent may hold a hearing if said State Superintendent deems the same to be warranted.

The State Superintendent will issue a decision on the appeal no later than five days prior to the start of a semester. If the transfer application appeal was not received in time for the State Superintendent to meet this deadline, the State Superintendent will issue a decision as soon as practicably possible.

A decision issued by the State Superintendent shall be final.

Other Requirements

Funding for nonresident students and determination of net enrollment shall be in compliance with state law and state board policy.

A report shall be made annually to the State Department of Education of the number of resident and nonresident student transfers approved by the Board for the preceding school calendar year, as well as the number of resident and nonresident student transfer applications denied and the reasons for those denials.

The annual number of resident and nonresident student transfer approvals and denials shall be made available on the Board's website.

Agreements made between county boards of education regarding the transfer of any student from one school district to another school district boards made and pursuant to W.Va. Code §18-5-16a prior to July 1, 2020, shall remain in effect.

Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary School Activities Commission.

Transfer of students from this state to another state shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the receiving county and the authorities of the school or district from which the transfer is made.

The Superintendent shall prepare guidelines for the implementation of this policy so as to comply with state and federal laws, regulations and policies.