

# FACT SHEET



## Open Enrollment (Nonresident Student Transfers)

### Kansas Statute – Policies and Requirements

#### K.S.A. 72-3123 through 72-3127

All school districts in Kansas must allow for the enrollment of nonresident students, *if space is available*. Each board of education was required to adopt a policy to align with state law by January 1, 2024. Annually, the district will determine the district's capacity to accept nonresident students at each grade level in each building and accept students following requirements in the law. **Open enrollment does not apply to** any virtual school, as defined by Kansas law, or to any school located on a military installation.

The policy must clearly specify the reasons that the board of education may use to deny continued enrollment of a nonresident student. Such reasons for denial could include, but are not limited to, elements such as a nonresident student's history of school absenteeism, suspensions, or expulsions. The policy must also consider the adverse impacts of homelessness before making any decisions about continued enrollment.

#### Publication Requirements on District Website

Accessed by a link titled "Open Enrollment Information" on the district homepage:

- Nonresident Enrollment Policy (including policy revisions)
- Application for Nonresident Open Enrollment/Transfer
- Available seats for Nonresident Students: **On or before June 1 of each year**, each school district must publish the number of open seats available to nonresident students in each grade level of each school building for the next school year on the school district website.

### Determining Enrollment Capacity

**On or before May 1 of each year**, the superintendent or designee shall develop and present recommendations concerning capacity and student-to-teacher ratios to the board for adoption or modification, and the board shall determine, for each grade level in each school building, for the **next succeeding year**, the following:

1. **For kindergarten and grades one through eight**, the classroom student-teacher ratio in each grade level; and
2. **For grades nine through 12**, the student-teacher ratio for each school building or program in each school building, including, but not limited to, advanced placement or international baccalaureate programs.

#### The board will determine the following:

1. Capacity (the total number of students that can enroll in each grade level);
2. number of students expected to attend each school in the district, which may include anticipated growth or decline; and
3. number of open seats available to nonresident students.



## Nonresident Application Process: Application Window

From January 1 through June 15, each school district shall **accept applications** from nonresident students who are seeking to enroll in and attend the school district in the next succeeding school year. Applications shall be on a form and in a manner determined by the school district.

- **Selection process shall be completed on or before July 15 of each year:** If the number of applications for a grade level in a school building is **less than** the number of available seats for such grade level in such school building, the nonresident students shall be accepted for enrollment and attendance at such school district, unless the nonresident student is not in good standing.
- If the number of applications for a grade level in a school building is **greater than** the number of available seats for such grade level in such school building, the school district shall randomly select nonresident students using a confidential lottery process.

## Priority in Filling Open Seats

### Students given priority, without going through open-seat lottery

**Subject to capacity** to enroll nonresident students, the district shall give priority to the following nonresident students, who shall receive open seats **without being selected through the open-seat lottery**:

- Any **sibling of a nonresident student** who is enrolled in and attending such school district or who is accepted to enroll in and attend such school district. Priority shall be given when the nonresident student is first accepted and, if necessary, at any other time the school district considers transfer applications.
- Any nonresident student who is a **military student** as defined in K.S.A. 72-5139. Priority shall be given when the military student is first accepted and, if necessary, at any other time the school district considers transfer applications.

**Regardless of capacity**, the following categories of students must be allowed to enroll or remain enrolled as if they are resident students:

- Any child who is in custody of the Department for Children and Families (DCF) and who is living in the home of a nonresident student who transfers may attend school in the receiving school district.
- Any nonresident student who has a parent or person acting as parent employed by a school district shall be permitted to enroll in and attend such school district as if the student is a resident of the school district. Any such student shall not be subject to the open-seat lottery established according to the adopted school district policy when enrolling in and attending the school district where the parent or person acting as parent is employed.
- Any child who is experiencing homelessness must be permitted to enroll in and attend the school district of origin or the school district of residence without application or acceptance under these provisions.



## Parent Notification and Appeal Process

On or before July 30 of each year, the school district must provide the parent or person acting as parent of a nonresident student who was not accepted for or denied enrollment at such school district the reason for the nonacceptance or denial and an explanation of the nonresident student selection process.

A nonresident student accepted for enrollment and attendance at a receiving school district shall be permitted to continue such enrollment and attendance in such school district until such student graduates from high school, unless the student is deemed to no longer be in good standing.

A receiving school district may deem any nonresident student as not in good standing in accordance with such school district's nonresident transfer policy, *including any nonresident student who has not previously attended or been enrolled* in the receiving school district.

If a school district deems a nonresident student as not in good standing, the school district may *deny such student's enrollment or continued enrollment* in the school district.

*A student may always enroll at any time in the school district where such student resides.*

### Student not in good standing

Statute permits school districts to deem any student as not in good standing according to the school district's nonresident transfer policy, including nonresident students who have not previously attended or been enrolled in the receiving school district. *Criteria used to deem a student not in good standing should be clearly stated in the policy.* A student may be denied enrollment based on incidents/reasons that may have occurred in *either the current or prior school year* as adopted in the district's nonresident transfer policy.

### Appeal process

If a school district denies an application of a nonresident student due to the school district deeming the nonresident student as not in good standing, the parent or person acting as parent of such student may appeal such denial to the school district board of education.

## Data Submission

Each year, every school district must submit to the Kansas State Department of Education (KSDE):

- The school district's nonresident student transfer policy; and
- The number of nonresident student transfers approved and denied in each grade level and whether the denial was based on capacity or the school district's policy

## Summary of Open Enrollment Timeline

- **January 1 through June 15** – Accept Applications from nonresident students
- **On or before May 1** – Determine Capacity for each grade level in each school building
- **On or before June 1** – Publish Open Seats on the district website
- **June 15 to July 15** – If applications exceed available open seats, complete the confidential lottery process.
- **On or Before July 30** - Notify Parents of nonresident student transfer determinations, including an explanation of the selection process.
- **October** – Annual Data Submission to KSDE (PBR)
- **November** – Annual Open Enrollment Policy Submission to KSDE



## Other Provisions

### Prohibitions regarding Open Enrollment

A school district shall not:

1. **Charge tuition or fees** to any nonresident student who transfers to such school district pursuant to this section **except** fees that are otherwise charged to every student enrolled in and attending school in the district; or
2. **accept or deny a nonresident student transfer based on** the following criteria: ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.

### Students limited to transfer once per school year

Except for a child in the custody of the DCF or a child who is experiencing homelessness, **a nonresident student shall not transfer more than once per school year** to one or more receiving school districts.

### Transportation of Students

Neither a resident school district nor a receiving school district shall be required to provide transportation to nonresident students **unless otherwise required** by applicable law. Some examples when transportation would be required by law would be a related service through a student's individualized education program, or as an accommodation pursuant to the student's Section 504 plan.

If space is available on district transportation vehicles, a district may assign nonresident students an in-district bus stop to and from where transportation may be provided by the district for nonresident students. Reminder: Any district which enters another district to provide transportation of a nonresident student is required by law to notify the district it is entering.

A district shall ensure that transportation for nonresident homeless students is provided comparably to that of housed students.

### KSHSAA Eligibility

Students attending a nonresident district through open enrollment are still required to meet requirements set forth by the Kansas State High School Activities Association (KSHSAA) regarding eligibility to participate in KSHSAA activities.

### Definitions

**"Homeless child"** means a child who lacks a fixed, regular and adequate night-time residence and whose primary night-time residence is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and transitional housing for the mentally ill;
2. an institution that provides a temporary residence for individuals intended to be institutionalized; or
3. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.



## OPEN ENROLLMENT (NONRESIDENT TRANSFERS)

**"Nonresident student"** or **"nonresident transfer student"** means a student who is enrolled and in attendance at or seeking to enroll and attend a school located in a district where such student is not a resident.

**"Parent"** means and includes natural parents, adoptive parents, stepparents and foster parents.

**"Person acting as parent"** means:

1. A guardian or conservator; or
2. a person, other than a parent, who:
  - a. Is liable by law to maintain, care for or support the child;
  - b. has actual care and control of the child and is contributing the major portion of the cost of support of the child;
  - c. has actual care and control of the child with the written consent of a person who has legal custody of the child; or
  - d. has been granted custody of the child by a court of competent jurisdiction.

**"Receiving school district"** means a school district of nonresidence of a student who attends school in such school district.

**"Sibling"** means a brother or sister of the whole or half blood, adoptive brother or sister, a stepbrother or stepsister or a foster brother or foster sister.

For more information, contact:

Gabrielle Hull  
Legislative Coordinator  
Division of Fiscal & Administrative Services  
(785) 296-7840  
Gabrielle.hull@ksde.gov



Kansas State Department of Education  
900 S.W. Jackson Street, Suite 102  
Topeka, Kansas 66612-1212  
(785) 296-3201  
www.ksde.gov

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