



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 114
[2011 Senate Bill 2]

Open Enrollment

2011 Wisconsin Act 114 makes changes to the application process for the Open Enrollment Program under which a pupil may attend public school in a school district other than the pupil's resident school district (nonresident school district) if certain conditions are met. A parent must apply to have his or her child attend school in another district in the following school year.

Prior Law

Under prior law, the timeframe for submitting open enrollment applications was between the first Monday in February and the third Friday following the first Monday in February.

There are specific reasons for which a nonresident school district may reject an open enrollment application. One of these reasons is the availability of space in the schools, programs, classes, or grades within the nonresident school district. The school board of a nonresident school district may create a waiting list for pupils whose applications were rejected.

A nonresident school district may also deny enrollment based upon whether the special education or related services described in a child's Individualized Education Plan (IEP) are available in the nonresident school district or whether there is space available to provide the services identified in the IEP. If a child is receiving special education or related services and attends a nonresident school district, the resident school board must pay tuition to the nonresident school board, as determined under current law, or an amount agreed to by the school boards of the two districts.

Under prior law, very generally, the Department of Public Instruction (DPI) transferred a specified amount of funding from the pupil's resident school district to the school district the pupil is attending under the Open Enrollment Program. If a pupil attended public school in a nonresident school district under the Open Enrollment Program for less than a full school term, DPI was required to prorate the amount it transferred based on the number of days that school is in session and the pupil attended public school in the nonresident school district.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

2011 Wisconsin Act 114

Timeframe for Open Enrollment Applications

The Act expands the period during which a parent may apply to have a pupil attend school in a nonresident school district. Under the Act, an application to enroll in another school district must be submitted between the first Monday in February and the last weekday in April. The other timeframe in open enrollment programs are extended to accommodate a longer application period.

Alternate Open Enrollment Application

Act 114 also creates an alternate application process in the Open Enrollment Program. Under the Act, the parent of a pupil who wishes to attend a public school in a nonresident school district may, in lieu of applying as provided under the general open enrollment program, submit an application to the school board of the nonresident school district that the pupil wants to attend if the pupil satisfies at least one of the criteria described below. Applications may be submitted to no more than three nonresident school boards in any school year.

The pupil must meet one of the following criteria, and the parent must describe in the application the criteria that the pupil meets:

1. The resident school district determines that the pupil has been the victim of a violent criminal offense, as defined by the Department of Public Instruction (DPI) by rule.
2. The pupil is or has been a homeless pupil in the current or immediately preceding school year.
3. The pupil has been the victim of repeated bullying or harassment. This criterion requires that the parent has reported the bullying or harassment to the resident school board and, despite reporting the circumstances, the repeated bullying or harassment continues.
4. The place of residence of the pupil's parent or guardian and of the pupil has changed as a result of military orders.
5. The pupil has moved into this state.
6. The place of residence of the pupil has changed as a result of a court order or custody agreement or because the pupil was placed in a foster home or with a person other than the pupil's parent, or removed from a foster home or from the home of a person other than the pupil's parent.
7. The parent of the pupil, the resident school district, and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the pupil.

For this criterion, if the resident school board notifies the parent that the pupil may not attend the nonresident school district, the parent may appeal the resident school district's decision to DPI and must explain in the appeal why the pupil applied to attend school in the nonresident school district. The resident school district must respond to the appeal and provide an explanation for rejecting the pupil's transfer into the nonresident school district. If DPI determines that the resident school district's decision to deny the pupil's transfer is not in the best interests of the pupil, DPI must notify the resident and

nonresident school districts and the pupil's parent that the pupil may attend the nonresident school district. This decision is final.

A nonresident school district that receives such an application must immediately forward a copy to the resident school board and must notify the applicant, in writing, whether it has accepted the application no later than 20 days after receiving it.

The resident school district may notify an applicant that the pupil may not attend a school or program in the nonresident school district if it determines that the criterion relied on by the applicant does not apply to the pupil or determines that the costs of special education or related services would impose an undue financial burden on the child's resident school district. A resident school district may not deny attendance in another school district based upon costs of special education if the pupil is requesting to attend the other school district because he or she has been the victim of a violent crime, however.

Availability of Space in Nonresident School District

The Act requires a school board to determine the number of regular education and special education spaces available within the school district for nonresident pupils in the January meeting of the school board, except that for the 2011-12 school year, the board must determine the number of spaces available in the February meeting.

Waiting List

The Act provides that a school board may accept pupils from a waiting list created under the Open Enrollment Program until the third Thursday in September but only if the pupil will be in attendance at the school or program in the nonresident school district on the 3rd Friday in September. If a pupil is accepted from a waiting list after the start of the school term, the parent must immediately notify the resident school district of the pupil's intent to attend school in the nonresident school district for the current school term.

The Act further provides that a pupil accepted from a waiting list may attend the school or program in the nonresident school district even if the pupil has attended a school or program in the pupil's resident school district in the current school term, but not if the pupil has attended a school or program in a nonresident school district in the current school term.

Estimate of Special Education Costs

The Act requires the nonresident school district to prepare an estimate of the costs to provide special education or related services required in the IEP developed for a child with a disability whose parent has submitted an open enrollment application. If the nonresident school district fails to comply with this requirement in the timeframe specified in the statute, the nonresident school district may not charge the resident school district for any actual, additional costs incurred by the nonresident school district to provide the special education and related services for the child with a disability.

School Aid

Under the Act, the revenue limit applicable to a school district in any school year is increased by the amount of any reduction to the school district's payment from DPI in the previous year for a pupil who was not included in the calculation of the number of pupils enrolled in that school district in the

previous year. This adjustment would apply to a resident school district that was unable to count a pupil who attends school in a nonresident school district under the Open Enrollment Program because, for example, the pupil moved into the resident school district during the school year.

Effective date: Act 114 took effect on February 16, 2012.

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