

Open Enrollment Model Policy

The Reason Foundation issued a report that noted elements of a strong open enrollment policy. Those elements are incorporated in this example of a model policy. Such a policy would allow Missouri to compete with the states that have strong open enrollment laws.

Section 1 – Establishing the Open Enrollment Program

As used in herein, the following terms mean:

- (1) "Department", the Department of Elementary and Secondary Education;
 - (2) "Nonresident district", a school district other than a transferring student's resident district;
 - (3) "Charter school", a charter school in a district other than a transferring student's resident district;
 - (4) "Parent", a transferring student's parent, guardian, or other person having custody or care of the student;
 - (5) "Public school", any school for elementary or secondary education that is supported and maintained from public funds and is conducted and operated within this state under the authority and supervision of a duly elected local board of education of the school district or a special administrative board appointed by the state board of education under section 162.081;
 - (6) "Resident district", the school district in which the transferring student resides or, in the case of a transferring student who is subject to joint legal custody or joint physical custody awarded by a court, the residence designated as the address of the student for educational purposes;
 - (7) "Sibling", each of two or more children having a parent in common by blood, adoption, marriage, or foster care;
 - (8) "Socioeconomic status", the income level of a student or the student's family, which shall be measured by whether a student or the student's family meets the financial eligibility criteria for free and reduced-price meals offered under federal guidelines;
 - (9) "Superintendent", the superintendent of a school district or the superintendent's designee;
 - (10) "Transferring student", a child beginning kindergarten in the child's resident district or a public school student in kindergarten to grade twelve who immediately prior to transferring has been enrolled in and completed a full semester in a public school in the student's resident district and who transfers to a nonresident district through a public school open enrollment program under sections 167.1200 to 167.1230;
- 1.** A public school open enrollment program is established to enable a child beginning kindergarten or a student in kindergarten to grade twelve to attend a school, including a

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charter school, in a nonresident district. Such program is designed to improve quality instructional and educational programs by providing opportunities including, but not limited to, the following:

(1) Providing access to instructional programs and classes that are not available in the resident district; and

(2) Offering parents the opportunity to select curriculum options that align with the parents' personal beliefs.

2. School districts shall be required to participate in the public school open enrollment program.

3. This shall not be construed to require a school district or charter school to add teachers, staff, or classrooms or to in any way exceed the requirements and standards established by existing law or the nonresident district.

4. The department shall develop a model policy within 90 days after the effective date of this bill for determining the number of incoming transfer seats and establishing specific standards for acceptance and rejection of transfer applications. The board of education of each school district and charter school shall, by resolution, adopt the model policy with any changes necessary for a particular district's or charter school's needs within 90 days after the model policy has been finalized.

(1) The specific standards for acceptance and rejection of transfer applications may include, but shall not be limited to:

(a) The capacity of a school building, grade level, class, or program;

(b) The availability of classroom space in each school building;

(c) Any class-size limitation;

(d) The ratio of students to classroom teachers; and

(e) The district's projected enrollment.

(2) The specific standards for acceptance and rejection of transfer applications shall include a statement that priority shall be given to an applicant who has a sibling who:

(a) Is already enrolled in the nonresident district; or

(b) Has made an application for enrollment in the same nonresident district.

(3) The specific standards for acceptance and rejection of transfer applications shall not include an applicant's:

(a) Academic achievement;

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(b) Athletic or other extracurricular ability;

(c) Disabilities;

(d) English proficiency level; or

(e) Previous disciplinary proceedings, except that any suspension or expulsion from another district shall be included.

(4) A school district or charter school receiving transferring students shall not discriminate on the basis of gender, national origin, race, ethnicity, ancestry, religion, disability, or whether the student is homeless or a migrant.

5. A nonresident district or charter school shall accept credits toward graduation that were awarded by another district to a transferring student and award a diploma to a transferring student if the student meets the nonresident district's graduation requirements.

6. The superintendent for each school district or charter school shall cause the information about the public school open enrollment program to be posted on the district or charter school website and in the student handbook to inform parents of students of the availability of the program, the application deadline, and requirements and procedures for resident and nonresident students to participate in the program.

7. If a student wishes to attend a school within a nonresident district that is a magnet school, an academically selective school, or a school with a competitive entrance process that has admissions requirements, the student shall furnish proof that the student meets the admissions requirements in the application.

8. A nonresident district or charter school may deny a transfer to a student who, in the most recent school year, has been suspended from school two or more times or who has been suspended for an act of school violence or expelled. A student whose transfer is initially precluded under this subsection may be permitted to transfer on a provisional basis as a probationary transfer student, subject to no further disruptive behavior, upon approval of the nonresident district's superintendent.

9. A student who is denied a transfer under this subsection has the right to an in-person meeting with the nonresident district's superintendent. The nonresident district shall develop common standards for determining disruptive behavior.

Section 2 – Treatment of transfer students

1. A student who applies to enroll in multiple nonresident districts or charter schools and accepts a public school open enrollment program transfer to a nonresident district or charter school shall accept only one such transfer per school year.

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2. A student who accepts a public school open enrollment program transfer to a nonresident district or charter school shall commit to attend and take all courses through the nonresident district or charter school for at least one school year. If a transferring student returns to the student's resident district, the student's transfer shall be void and the student shall reapply if the student seeks a future public school open enrollment program transfer.

3. Except as otherwise provided in this subsection, a transferring student attending school in a nonresident district or charter school may complete all remaining school years in the nonresident district or charter school without reapplying each school year.

Section 3 – Funding and transportation

1. For the purposes of determining state and federal aid, a transferring student shall be counted as a resident pupil of the nonresident district or charter school in which the student is enrolled. The minimum state aid for nonresident districts and charter schools that receive transfer students will be the higher of the full student adequacy target, as annually determined by the legislature, or the average foundation formula amount per student in the nonresident district or charter school.

2. If a nonresident student receives special educational services and participates in the public school open enrollment program, the nonresident district shall receive reimbursement from the parent public school choice fund established in section 167.1212 for the costs of the special educational services for the student with an individualized education program above the state and federal funds received for educating the student. Such reimbursement shall not exceed three times the current expenditure per average daily attendance as calculated on the district annual secretary of the board report for the year in which expenditures are claimed.

3. Except for a transferring student with a socioeconomic status that qualifies the student for transportation costs reimbursement under subsection 5 of this section, the transferring student or the student's parent is responsible for the transportation of the student to and from the school in the nonresident district or charter school where the student is enrolled, except that the nonresident district or charter school may enter into an agreement with the student's parent that the parent may transport the student to an existing bus stop location convenient to the school district or charter school if the school district or charter school has capacity available on a bus serving that location.

4. If transportation is a related service on a student's individualized education program (IEP) and the student is a participant in the public school open enrollment transfer program, the nonresident district or charter school shall not be required to provide such transportation as a related service under the IEP if the nonresident district or charter school and the student's parent have entered into an agreement under this subsection. Such agreement shall contain a statement that the parent is waiving the transportation as a related service under the student's IEP.

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5. Any transferring student who qualifies for free and reduced-price meals under federal guidelines and transfers to any nonresident district sharing a border with the student's resident district shall be offered transportation services provided by the nonresident district or may choose to be reimbursed by the parent public school choice fund established in section 167.1212 for the costs of transportation of the student as provided in this subsection.

6. The amount of transportation costs eligible for reimbursement shall be the number of days of attendance, the number of miles in a single round trip between the student's residence and the nonresident school or charter school, and a mileage reimbursement rate, as determined annually by the legislature.

7. Nonresident districts or charter schools providing transportation services under this subsection may partner or contract with the resident district or a third-party transportation provider, or both, in providing transportation and shall also be reimbursed by the parent public school choice fund established in section 167.1212 for the costs of transportation of the student as provided under this subsection.

Section 4 – Parent Public School Choice Fund

1. There is hereby created in the state treasury the "Parent Public School Choice Fund", which shall consist of an appropriation by the general assembly of eighty million dollars and any additional appropriations made by the general assembly. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 5 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely as provided in sections 167.1200 to 167.1230.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. Moneys appropriated to and deposited in the fund shall be used to supplement, not supplant, state aid distributed to school districts under chapter 163 and shall be used solely to compensate school districts that participate in the public school open enrollment program established in sections 167.1200 to 167.1230.

5. The department shall annually evaluate the availability and use of moneys from the fund. If the department determines that additional moneys are needed to fulfill the purposes of this section, the department shall, as part of the legislative budget process, annually request such moneys by a specific line-item appropriation.

Section 5 – Determining available seats

1. Before December first annually, each school district and charter school shall set the number of transfer students the district is able to receive for the following school year. The district or

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charter school may create criteria for the acceptance of students including, but not limited to, the number of students by building, grade, classroom, or program.

2. Each school district and charter school shall publish the number set under this section, notify the department of such number, and shall not be required to accept any transfer students under this section who would cause the district to exceed the published number. The school district or charter school may report the total number of students the district is willing to receive and further delineate the number by building, grade, classroom, or program.

3. Each school district and charter school shall develop a method for the formation and operation of a waiting list for applications that cannot be accepted because the number of transfers applied for exceeds the number of transfers available.

Applications on the waiting list may be given priority for acceptance in the following order and may include other options for priority acceptance:

(a) Siblings of students already enrolled in the district;

(b) Children of an active duty member of the Armed Forces of the United States;

(c) Children of school district employees;

(d) Students who had previously attended school in the district but whose parents have moved out of the district; and

(e) Students whose parents present an employment circumstance for which an open enrollment transfer would be in the student's best interest.

Section 6 – Applying for transfer

1. If a student seeks to attend a school in a nonresident district or nonresident district charter school under sections 167.1200 to 167.1230, the student's parent shall submit an application to the nonresident district or charter school, with a copy to the resident district on a form approved by the department that contains the student's necessary information for enrollment in another district. The application must be postmarked before February first in the calendar year preceding the school year in which the student seeks to begin the fall semester at the nonresident district or charter school.

2. A nonresident district or charter school that receives an application under subsection 1 of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

3. As soon as possible after receiving an application but not later than 10 days after [the deadline for application submissions], the superintendent of the nonresident district or charter school shall review and make a determination on each application in the order in which the application was received by the nonresident district or charter school. Before accepting or

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rejecting an application, the superintendent shall determine whether one of the limitations under section 167.1225 applies to the application.

4. The superintendent of the nonresident district or charter school may accept an application. If the superintendent rejects an application, the superintendent shall present the rejected application with the superintendent's reasons for the rejection to the school board.

5. Before April first of the school year before the school year in which the student seeks to enroll in a nonresident district or nonresident district charter school, the nonresident district's or charter school's superintendent shall notify the parent and the resident district, in writing, as to whether the student's application has been accepted or rejected. The notification shall be sent by first-class mail to the address on the application and by email if an email is provided. If the application is rejected, the nonresident district's or charter school's superintendent shall state in the notification letter and email the reason for the rejection.

If the application is accepted, the nonresident district's or charter school's superintendent shall state in the notification letter and email a reasonable deadline before which the student shall enroll in the nonresident district or charter school and after which the acceptance notification is void. The nonresident district's or charter school's superintendent shall notify the resident district and the department of the student's participation.

Section 7 – Rejections and appeals

1. A student whose application for a transfer under section 167.1220 is rejected by the nonresident district or charter school may appeal to the department to reconsider the transfer.

2. An appeal to the department shall be in writing and shall be postmarked no later than fifteen calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application by first-class mail under section 167.1220.

3. Contemporaneously with the filing of the written appeal under subsection 2 of this section, the student or the student's parent shall also mail a copy of the written appeal to the nonresident district's or charter school's superintendent.

4. In the written appeal, the student or student's parent shall state the basis for appealing the decision of the nonresident district or charter school.

5. The student or the student's parent shall submit, along with the written appeal, a copy of the notice of rejection from the nonresident district or charter school.

6. As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, health, social, or psychological interest of the student.

7. The nonresident district or charter school may submit in writing any additional information, evidence, or arguments supporting the district's rejection of the student's application by

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mailing such response to the department. Such response shall be postmarked no later than ten days after the nonresident district or charter school receives the student's or parent's appeal.

8. Contemporaneously with the filing of its response under subsection 7 of this section, the nonresident district or charter school shall also mail a copy of the response to the student or student's parent.

9. If the department overturns the determination of the nonresident district or charter school on appeal, the department shall notify the parent, the nonresident district or charter school, and the resident district of the basis for the department's decision.

Section 8 – Open Enrollment Program website

1. The department shall establish a website that collects, maintains, and displays data from school districts and charter schools on the number of applications for student transfers received, the number accepted, and the number rejected by student subgroup. In addition, all funding, including for transportation, for transfer students will be tracked and displayed for every district and charter school.

2. The department shall track and display the maximum number of transfers and exemptions for both resident and nonresident districts and charter schools for up to two years to determine if a significant racially segregative impact has occurred to any school district.

3. Annually before December first, the department shall report the department's findings from the study of the data under this subsection to the joint committee on education or any successor committee, the house committee on elementary and secondary education or any other education committee designated by the speaker of the house of representatives, and the senate committee on education or any other education committee designated by the president pro tempore of the senate.

4. The department shall annually make a random selection of ten percent of the school districts participating in the public school open enrollment program under sections 167.1200 to 167.1230. The department shall audit each selected school district's transfers approved or denied under policies adopted by the school board under sections 167.1200 to 167.1230. If the department determines that a selected school district is improperly implementing and administering the transfer process established under sections 167.1200 to 167.1230, the department may withhold any state aid provided to the school district under chapter 163 until the school district corrects the transfer process improprieties identified by the department's audit.