

Open Enrollment

Overview and Explanation

October 2013

GENERAL DESCRIPTION

Created in 1989, intra- and inter-district open enrollment is the process by which students can enroll into another school building or another school district on a tuition free basis. Intra-district open enrollment refers to students within a school district enrolling in the different school buildings of that district. Inter-district open enrollment refers to native students of a district enrolling in another district by following that district's open enrollment policies and procedures. **Students enrolled under an open enrollment policy must be allowed to attend tuition free.**

If a district has more than one school building at any grade level, it must adopt an intra-district open enrollment policy and have procedures for deciding when students may be allowed to enroll in a school building other than the one assigned by the Board or district superintendent. If the district only has one school building for students to attend at all grade levels, then it need not adopt an intra-district open enrollment policy.

Regardless of the number of school buildings, all districts must adopt an inter-district open enrollment policy that either: 1) entirely prohibits enrollment of students from adjacent or other districts; 2) permits the enrollment of students only from all adjacent districts; or 3) that permits open enrollment from all other districts (commonly known as statewide open enrollment).

The inter-district open enrollment policy must include procedures for notifying the superintendent of the applicable district when a student is accepted through open enrollment [ORC 3313.98(B)(1)(a)]. The law also specifically states that the district accepting a student through open enrollment shall accept all credits toward graduation from the other districts the student has attended [ORC 3313.98(E)]. Districts cannot discourage or prohibit its own native students from applying to open enroll in other districts unless doing so would not allow the district to maintain an appropriate racial balance or comply with desegregation orders [ORC 3313.98(F)].

State law also prescribes what a Board's open enrollment policies can and cannot include, as well as what information shall be shared with the public. **The law gives ODE the responsibility for monitoring open enrollment policies and procedures, and district compliance with its policies and procedures.** Both an intra-district and inter-district open enrollment checklist must be signed and filed with Area Coordinators' office on an annual basis which certifies the district's open enrollment policies comply with provisions in the ORC and that the district is

complying with its policies. **ODE is to investigate any complaint regarding a district not following its open enrollment policies.**

INFORMING THE PUBLIC

School districts are required to inform residents every year about intra- and inter-district open enrollment options available to pupils. All communications used to inform parents/guardians and students about the open enrollment options and all internal documents/forms used by the school district must accurately reflect the letter and spirit of the law. Upon request of a parent/guardian, school districts allowing inter-district open enrollment must provide information about the educational programs and application procedures available.

TIMELINES

Each board of education should adopt timelines suitable for their district's needs. Timelines for participating in intra- and inter-district open enrollment are to be made public. Each school district should allow sufficient time to enable parents/guardians to make appropriate educational decisions. The following is a suggested timeline for a district allowing inter-district open enrollment.

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| May 1 | Open enrollment applications are due in the superintendent's office of the district considering open enrollment students. |
| June 15 | School districts inform parent/guardian whether the student has been accepted through open enrollment. |
| June 30 | Parent/guardian notifies the school district whether or not their child will attend the district under open enrollment. |

An application for open enrollment can be denied if the application has not been received within the timeframes established by the local board of education. It is permissible for local boards of education to adopt a "late application" policy to permit the consideration of students after the deadline has passed.

LIMITATIONS TO OPEN ENROLLMENT

A board of education may place the following limitations on the open enrollment of students through its policies:

1. A board of education may limit the size of individual classes, place a limit on a school building's capacity, and/or limit the number of students in a particular educational program.
2. A board of education may limit open enrollment to insure that an appropriate racial balance is maintained within the district's schools.
3. A board of education may make inter-district open enrollment available on a year-to-year basis. It is recommended that potential students be advised of the possibility of closing a grade-level to open enrollment or a school district not adopting open enrollment in future years.
4. A board of education may limit inter-district open enrollment to just adjacent school districts.

A district must be aware of potential racial imbalances. It is possible for some districts to have one or more racially isolated school buildings. A racially isolated building is defined as one in which the racial composition varies significantly from the composition of the district. Both intra-district and inter-district open enrollment laws require school districts to adopt procedures to ensure that an appropriate racial balance is maintained in the district schools. In essence, the law appears to be advising schools not to infringe on the constitutional rights of any of its students. Since there is no definition for when "racial composition varies significantly", ODE encourages a racial balance policy be adopted as part of or, in conjunction with, the district's open enrollment policy.

Boards of education may **not** make the following limitations:

1. Establish requirements of academic ability, or any level of athletic, artistic, or extracurricular skills.
2. Place limitations on admitting students because of a handicapped condition, except a board can require a disabled student to attend school in the building where services are provided.
3. Establish the requirement that a student be proficient in the English language.
4. Deny enrollment because a student was subjected to a disciplinary action, with the exception of an applicant who has been suspended or expelled for a period of 10 or more consecutive days for the current semester or the semester immediately preceding the term for which admission is sought.

If a district accepts open enrollment students, it must accept students from all grade levels, including special education preschool. Districts cannot limit open enrollment to only certain grade levels however certain grades may reach the districts' capacity limits.

APPLICATION PROCEDURES

The application process is determined by each local board of education. Each district should have written applications procedures for intra-district open enrollment consistent with the requirements of Revised Code section 3313.97. Students requesting applications for intra-district open enrollment must comply with all provisions of the enrollment policy adopted by the board of education.

Each district opting to allow inter-district open enrollment students, should have written application procedures consistent with the requirements of Revised Code section 3313.98. Application procedures should be obtained from the superintendent's office of the school district in which the student seeks to enroll. Students applying for inter-district open enrollment must comply with all provisions of the open enrollment policy adopted by the board of education of the school district in which they are seeking admission.

SELECTING APPLICANTS

Applicants shall be notified in writing of their acceptance or rejection into the district pursuant to the policy adopted by the board of education. The date of the notification shall be established by the board of education. The method and criteria used for making the selection of applicants must be public information. This information should be available to parents/guardians in the school district's office.

Students enrolled or living in a building attendance area and students accepted into open enrollment during the previous year shall be given priority when determining how many and which student shall be allowed to open enrollment in the current school year. For ongoing open enrollment students, the accepting school or district must notify the native (home) school or district of any changes in the enrollment status of the students previously accepted.

When a new student is accepted under a district's open enrollment policy, the accepting district should notify the native (home) district and request the student's records. If the native (home) district has questions, the educating district is expected to cooperate. If requested, the educating district should provide proof of residence or, at the very least the address that was used to determine the native (home) district.

ATHLETIC ELIGIBILITY

Athletic eligibility applies to all students in grades seven through twelve who wish to participate in interscholastic sports. A discussion with the administration needs to be initiated by the student if he/she wishes to change buildings within the native (home) school district and retain eligibility. If a student wishes to change schools through inter-district open enrollment, the

student should consult with the school administration and follow the guidelines for athletic eligibility as established by the Ohio High School Athletic Association. Area Coordinators must not make or appear to make athletic eligibility rulings for student athletes.

SPECIAL EDUCATION

A school district may not discriminate against any student because of a disability condition. However, a board of education may deny enrollment of a disabled student when the services are not provided in the building in which the student wishes to enroll. A local board may also designate the buildings in which the various special education services are to be provided.

A school district is obligated to provide the special education services needed by all native (home) students. If a district accepts an open enrollment student and later learns that the student has a disability that requires special education services, that school district can provide those services if available; however, if the services are not available, the native (home) school district has the responsibility to make sure the student is served. The educating school district may bill the native (home) school district for “excess costs” for the services provided to open enrollment special education students.

For inter-district open enrollment students, the native (home) school district remains responsible for insuring that all of the “due process procedures” are provided to their students. Educating school districts are only acting as agents of the native (home) school district, and decisions about the student’s educational program remain with the native (home) school district. Because of this retention of responsibility by the native (home) school district, it is suggested that parent(s)/guardian(s) be told in advance of the relationship that will exist when a student chooses to attend another district through open enrollment.

Class size for special education classes is determined by State Board of Education rule. Waiver of class size will not be granted by the ODE in order to accommodate additional open enrollment students. School districts must account for this position when making determinations about appropriate program class size in special education.

TRANSPORTATION

A board of education is not required to transport an intra-district open enrollment student to the new school building unless (1) the student can be picked up and dropped off at a regular bus stop designated in accordance with the board’s transportation policy or (2) the board is required to provide additional transportation for the student in accordance with a court-approved desegregation plan.

Upon the request of a parent/guardian, and provided the board of education offers transportation to native (home) students of the same grade and distance from school, a board of education enrolling a student from an adjacent or other school district shall provide transportation for the student within the boundaries of the educating school district.

Parents/guardians responsible for transporting students to designated pick-up points, may be reimbursed an amount equal to the reasonable cost of transportation for providing the transportation from the home to the designated pick-up point, if their family income is below the federal poverty line.

A district's obligation to transport a disabled student as specified in the Individual Education Plan (IEP) is not affected just because the student is enrolled through open enrollment.

STATE FUNDING

Open enrollment students are counted in their native (home) school district for the October enrollment report. A credit or deduction will be made by ODE based on the number of students gained or lost through open enrollment. Currently the calculation is based on the State formula aid amount set by the legislature times the full time equivalent of the open enrollment student. Special Education weighted funding is not transferred. However, school districts educating special education students accepted through open enrollment may bill the native (home) school districts for "excess costs" by following SF-6 procedures.

School districts not adopting an inter-district open enrollment policy would be allowed to collect tuition from the parents of students enrolled from outside the district in the same manner they have always employed.

JOINT VOCATIONAL SCHOOL DISTRICT STUDENTS

It is possible for a student to change joint vocational school districts (JVSD) through inter-district open enrollment, and for this reason JVSDs are allowed to establish the limitations that are permissible for other public schools. It is possible for JVSD to accept students from adjacent joint vocational school districts or from all other joint vocational school districts.

LEGAL CITATIONS

Current Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) information can be found at <http://codes.ohio.gov>.

Key legal citations for intra-district open enrollment are ORC 3313.97 and OAC 3301-48-01. Key legal citations for inter-district open enrollment are ORC 3313.98 through 3313.983 and OAC 3301-48-02.

Because of the interaction with many provisions of the Ohio Revised Code, the following represents a list of the significant provisions which affect open enrollment:

- ORC 3311.19 –JVS Board of Education
- ORC 3311.52 – Establishes Cooperative Ed. School Districts
- ORC 3313.64 – Tuition statute
- ORC 3313.65 – Tuition for students with incarcerated parents
- ORC 3313.662 – (Brief description)Order excluding pupils from school
- ORC 3313.841 – (Brief description)Sharing of services
- ORC 3313.90 – (Brief description) Vocational Education Programs
- ORC 3313.92 – (Brief description) Joint School Building Projects
- ORC 3313.98 – Inter-district Open Enrollment
- ORC 3313.981 – Inter-district Open enrollment calculations for funding
- ORC 3313.982 – (Brief description)Restricting admission to school
- ORC 3313.983 – (Brief description) JVS to adopt policy for enrollment
- ORC 3313.02 – (Brief description) Membership of City Boards
- ORC 3317.02 – (Brief description) Foundation Program
- ORC 3317.022 – (Brief description) Distribution of State Funds to Schools
- ORC 3317.03 – (Brief description) Certification of ADM
- ORC 3317.08 – (Brief description) Tuition for nonresident students
- ORC 3323.01 – Special Education Definitions and Tuition
- ORC 3327 et seq. – Pupil Transportation