Information Sheet – 04/21/2020 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.5

FR: Celli Coeville

DATE: April 15, 2020

RE: Consider Deletion of Board Policy & Administrative Regulation, BP/AR 5118, Open Enrollment Act Transfers

Board Policy and Administrative Regulation 5118 are recommended for deletion as the California Department of Education (CDE) no longer identifies low-achieving schools based on the Academic Performance Index for purposes of developing an Open Enrollment List of schools, in which students had the option to transfer to a higher achieving school within or outside of the district. I've attached the Board Policy and Administrative Regulation.

Recommended Action: Approve Deletion of BP/AR 5118, Open Enrollment Act Transfers

OPEN ENROLLMENT ACT TRANSFERS

The Governing Board desires to offer enrollment options in order to provide children with opportunities for academic achievement and that their diverse needs. Such options shall also be provided to children who reside within another district's boundaries in accordance with law, Board policy, and administrative regulation.

Whenever a student is attending a district school on the Open Enrollment List as identified by the Superintendent of Public Instruction, he/she may transfer to another school within or outside of the district, as long as the school to which he/she is transferring has a higher Academic Performance Index. (Education Code 48354, 48356)

A parent/guardian whose child is attending a district school on the Open Enrollment List and who wishes to have his/her child attend another school within the district shall apply for enrollment using BP/AR 5116.1 - Intradistrict Open Enrollment.

(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)

In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, the Board hereby waives the January 1 deadline in Education Code 48354 for all applications for transfer from nonresident parents/guardians of children attending a school on the Open Enrollment List in another district. Transfer applications shall be submitted between **June 1 and June 7** of the preceding school year for which the transfer is requested.

(cf. 5111.1 - District Residency)
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

The Board may deny a transfer out of or into the district upon a determination by the Board that the transfer would negatively impact a court-ordered or voluntary desegregation plan in accordance with Education Code 48355.

Standards for Rejection of Transfer Applications

Pursuant to Education Code 48356, the Board has adopted the following standards for acceptance and rejection of transfer applications submitted by a parent/guardian of a student attending a school in another district on the Open Enrollment List. The Superintendent or designee shall apply these standards in accordance with Board policy and administrative regulation and shall ensure that the standards are applied uniformly and consistently.

As applicable, the Superintendent or designee may deny a transfer application under any of the following circumstances:

OPEN ENROLLMENT ACT TRANSFERS (continued)

1. Upon a determination that approval of the transfer application would negatively impact the capacity of a program, class, grade level, or school building, including:

a. The class or grade level exceeding the district's limits pursuant to the state Class Size Reduction Program or the Morgan/Hart Class Size Reduction Program for Grades 9-12

b. The site, classroom, or program exceeding the maximum student-teacher ratio specified in the district's collective bargaining agreement

c. The site or classroom exceeding the physical capacity of the facility pursuant to the district's facilities master plan or other facility planning document

d. The class or grade level exceeding capacity pursuant items #a-#c above in subsequent years as the student advances to other grade levels at the school

(cf. 6151 - Class Size)
(cf. 7110 - Facilities Master Plan)

2. Upon a determination that approval of the transfer application would have an adverse financial impact on the district, including:

a. The hiring of additional certificated or classified staff

b. The operation of additional classrooms or instructional facilities

c. Expenses incurred by the district that would not be covered by the apportionment of funds received from the state resulting in a reduction of the resources available to resident students

Appeal Process for Denials of Transfer Applications

A parent/guardian may appeal the district's denial of a transfer application to the Superintendent by filing a written request of appeal with the Superintendent or designee within 10 days of the receipt of the written notification of denial. In addition, a parent/guardian who believes he/she has been subject to discrimination may file an appeal using the district's Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Program Evaluation

The Superintendent or designee shall collect data regarding the number of students who transfer out of the district pursuant to the Open Enrollment Act. He/she also shall collect data regarding the number of students who apply to transfer into the district, the number of requests granted, denied, or withdrawn, and the district schools and programs receiving applications.

OPEN ENROLLMENT ACT TRANSFERS (continued)

When the Superintendent or designee anticipates that a particular school will receive a large number of transfer applications, he/she shall study the enrollment pattern at that school in order to anticipate future resident enrollment at the school and at the district schools into which those students would normally matriculate.

The Superintendent or designee shall regularly report to the Board regarding the implementation of this program.

Legal Reference:

EDUCATION CODE
200 Prohibition of discrimination
35160.5 District policies, rules, and regulations
46600-46611 Interdistrict attendance agreements
48200 Compulsory attendance
48204 Residency requirements for school attendance
48300-48316 Student attendance alternatives, school district of choice program
48350-48361 Open Enrollment Act
48915 Expulsion; particular circumstances
48915.1 Expelled individuals: enrollment in another district
52317 Regional Occupational Center/Program, enrollment of students, interdistrict attendance
FAMILY CODE
6500-6552 Caregivers
UNITED STATES CODE, TITLE 20
6316 Transfers from program improvement schools
CODE OF REGULATIONS, TITLE 5
4700-4703 Open Enrollment Act
CODE OF FEDERAL REGULATIONS, TITLE 34
200.36 Dissemination of information
200.37 Notice of program improvement status, option to transfer
200.39 Program improvement, transfer option
200.42 Corrective action, transfer option
200.43 Restructuring, transfer option
200.44 Public school choice, program improvement schools
ATTORNEY GENERAL OPINIONS
87 Ops.Cal.Atty.Gen. 132 (2004)
84 Ops.Cal.Atty.Gen. 198 (2001)
COURT DECISIONS
Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

Management Resources:

WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov

OPEN ENROLLMENT ACT TRANSFERS

Definitions

District of enrollment means the district, other than the district in which the student's parent/guardian resides, in which the parent/guardian intends to enroll his/her child. (Education Code 48352)

District of residence means the district in which the parent/guardian of a student resides and in which the student would otherwise be required to enroll pursuant to Education Code 48200. (Education Code 48352)

(cf. 5111.1 - District Residency)

Open enrollment school means a "low-achieving" school identified by the Superintendent of Public Instruction (SPI) pursuant to Education Code 48352 and 5 CCR 4701. (Education Code 48352; 5 CCR 4701)

Transfer Applications into a District School

Enrollment priority shall be available to students who reside within this district. No student who resides within a school's attendance area or who is currently enrolled in a school shall be displaced by a student who is transferring pursuant Education Code 48350-48361 or 5 CCR 4700-4703. (Education Code 48354, 48356)

Applications shall be submitted within the deadlines established by Board policy.

However, the application deadline shall not apply to an application requesting a transfer if the parent/guardian with whom the student resides is enlisted in the military and was relocated by the military within 90 days prior to submitting the application. (Education Code 48354)

(cf. 6173.2 - Education of Children of Military Families)

The parent/guardian's application may request enrollment of his/her child in a specific school or program. Requests for admission to a magnet school or program designed to serve gifted and talented students shall be subject to the usual admission requirements established by the district for district students. Except for such specialized admission requirements, the Superintendent or designee shall not consider the student's previous academic achievement, athletic performance, physical condition, English language proficiency, family income, or any of the prohibited bases for discrimination listed in Education Code 200. (Education Code 48354, 48356)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 6172 - Gifted and Talented Student Program)

OPEN ENROLLMENT ACT TRANSFERS (continued)

Students applying for open enrollment transfers shall be assigned priority for approval as follows: (Education Code 48356):

1. First priority for the siblings of students who already attend the desired school

2. Second priority for students transferring from a program improvement school ranked in decile 1 on the Academic Performance Index (API)

If the number of students who request a particular school exceeds the number of spaces available at that school, the Superintendent or designee shall conduct a lottery, in the group priority order identified in items #1 and #2 above, to select students at random until all of the available spaces are filled. (Education Code 48356)

Within 60 days of receiving the application, **that shall be submitted between June 1 and June 7 of the preceding school year for which the transfer is requested,** the Superintendent or designee shall provide written notification to the parent/guardian and the student's district of residence as to whether the application has been accepted or rejected. If the application has been rejected, the notice shall state the reasons for the rejection. If the application has been approved, the notification shall specify the particular school site and the school's address to which the student has been admitted. (Education Code 48357; 5 CCR 4702)

Terms of Approval

The Superintendent or designee shall ensure that the school to which the student is transferring has a higher API than the school in which the student was previously enrolled. (Education Code 48356)

The parent/guardian shall enroll his/her child on or before the first day of instruction or within 14 calendar days of receipt of the district's notice of approval of the application, whichever is later. If the parent/guardian fails to enroll his/her child within this timeframe, the district may decline to enroll the student. (5 CCR 4703)

Upon enrollment, the district shall grant the student any credits towards graduation that he/she received from his/her district of residence. The student shall be eligible for graduation from district schools upon completion of state and district graduation requirements. (Education Code 48358)

(cf. 6143 - Courses of Study)
(cf. 6146.1 - High School Graduation Requirements)
(cf. 6146.5 - Elementary/Middle School Graduation Requirements)
(cf. 6162.52 - High School Exit Examination)

OPEN ENROLLMENT ACT TRANSFERS (continued)

A student admitted to a district school through this process shall be deemed to have fulfilled district residency requirements pursuant to Education Code 48204 and shall not be required to reapply for enrollment in that school, regardless of whether his/her school of residence remains on the Open Enrollment List. (Education Code 48356; 5 CCR 4702)

Once admitted, a transfer student who wishes to matriculate into a district middle or high school or transfer to another district school shall reapply for admission to the new school pursuant to the requirements of Board policy and administrative regulation.

Parents/guardians are responsible for transporting their children to school.

Transfers Out of District Schools on the Open Enrollment List

Upon identification by the California Department of Education (CDE) that a district school is on the Open Enrollment List, the Superintendent or designee shall notify the parents/guardians of each student enrolled in the school of the option to transfer. This notice shall be provided by the first day of instruction. However, if the CDE has not notified the district whether a school is on the list by the first day of instruction, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's web site. (Education Code 48354; 5 CCR 4702)

(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 5145.6 - Parental Notifications)