



## **5100.3: ENROLLMENT OF STUDENTS - NONRESIDENT STUDENTS: ENROLLMENT OPTION PROGRAM**

### **I. General Statement.**

**A. Nebraska law enables any kindergarten through twelfth grade Nebraska student to attend a school in a public school district in which the student does not reside pursuant to the Nebraska option enrollment laws and subject to limitations and standards authorized by law and adopted by the public school district. The option is only available once to each student prior to graduation. Provided however, that an option does not count toward such limitation if such option meets, or met at the time of the option, one of the following criteria:**

- 1. The student relocates to a different resident school district; or**
- 2. The option school district merges with another district; or**
- 3. The option school district is a Class I district; or**
- 4. The student will have completed either the grades offered in the school building originally attended in the option school district or the grades immediately preceding the lowest grade offered in the school building for which a new option is sought; or**
- 5. The option would allow the student to continue current enrollment in a school district; or**
- 6. The option would allow the student to enroll in a school district in which the student was previously enrolled as a student; or**

**B. Option enrollment shall be administered under the direction of the District's Superintendent and the Superintendent shall serve as the designee of the District's Board of Education for any matters involving option enrollment to be acted upon by the Board, except as otherwise required by law or hereinafter provided.**

### **II. Standards for Acceptance, Rejection, and Capacity.**

**A. Acceptance, Rejection, and Capacity.** The Board shall adopt a resolution setting forth its specific capacity standards for acceptance and rejection of applications as an option school district, and for acceptance or rejection of a request for release of a resident or option student submitting an application to an option school district after March 15 as provided in subsection III(A) of this Rule. The Board's adoption of a resolution does not preclude the Board from adopting a subsequent resolution with specific capacity standards partially or wholly different from its previous resolution(s). Capacity for special education services shall be determined on a case-by-case basis, with the District's Director of Special Education Services or designee evaluating the applications for option enrollment received by the District which indicate that the student has an individualized education program under the Individuals with Disabilities Education Act or has been diagnosed with a disability as defined in Neb Rev. Stat. § 79-1118.01, to determine if the District and the appropriate class, grade level, or school building has the capacity to provide the student the appropriate services and accommodations. For all other students, the standards may include the capacity of a program, class, grade level, or school building, and, in addition shall take into consideration any unique circumstances having an impact on enrollment capacity. Such unique circumstances having an impact on enrollment capacity shall include, but shall not be limited to, planned expansion and increases of enrollment, projected future enrollments, growth issues pertaining to instructional staff, class size and unassigned instructional space, housing construction projections, and planned accommodations for future enrollment growth. To facilitate option enrollment, the District shall annually establish, publish, and report a maximum capacity for each District school building pursuant to procedures, criteria and deadlines established by the State Department of Education. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in Neb. Rev. Stat. §79-266.01. Standards for acceptance or rejection of a request for release shall not include that a request occurred after the deadline set forth in subsection III(A) of this Rule. The District may by resolution prior to October 15 of each school year, declare a program, class, grade level, or school building unavailable to option students for the next school year due to a lack of capacity.

**B. Priorities for Option Enrollment.** Priority for acceptance of applications received shall be as follows:

**1. For applications received on or before the March 15 deadline:**

- a. First priority for option enrollment shall be for siblings of option students enrolled in the District.**
- b. Second priority shall be for enrollment of students who reside in the Learning Community and who contribute to the socioeconomic diversity of enrollment at the school building to which the student will be assigned.**
- c. Third priority shall be for enrollment of other students who reside in the Learning Community.**
- d. The District shall not be required to accept a student meeting the priority criteria if the program, class, grade level, or school building is at capacity, except as provided in Neb. Rev. Stat. § 79-240 and subsection III(D)(7) of this Rule.**

2. In the event there are fewer spaces available than the number of applications in a given priority category, the selection shall be determined on a random basis. If the applications received for a school building exceed the remaining capacity of a school building, the District shall establish a wait list for all excess applications in the order of selection priority as hereinbefore provided, and option enrollment slots which become available shall be filled from the wait list in order as provided in subsection IV of this Rule. All wait lists will become null and void prior to the first day of the next upcoming second semester.

3. For applications received after the March 15 deadline and for which space is available in the program, class, grade level, or school building, selection shall be as provided in subsection IV of this Rule.

### III. September 1 to March 15 Regular Application and Cancellation Process.

A. **September 1 to March 15 Regular Application.** To attend an option school district, the student's parents or legal guardian shall submit an application to the board of education of the option school district between September 1 and March 15 for enrollment during the following school year. If the District is the option school district, the application shall be delivered to the office of the Superintendent or Superintendent's designee. Applications submitted after March 15 shall contain a release approval from the resident school district on the application form prescribed and furnished by the Department of Education. The option school district may not accept or approve any applications submitted after such date without such a release approval. The option school district shall provide the resident school district with the name of the applicant on or before April 1.

1. The student's parents or legal guardian shall use the application and cancellation forms furnished by the Department of Education.

2. A separate application is required for each student.

3. Applications shall be accepted for the immediately following school year only.

4. Siblings of option students shall make their own independent application for attendance as an option student.

5. A particular school within a school district may be requested, but the school assignment of the option student shall be determined by the option school district and Neb. Rev. Stat. § 79-2110(3) for students attending a focus school, focus program, or magnet school.

6. A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of Neb. Rev. Stat. § 79-238(4). Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of Neb. Rev. Stat. § 79-238(4) shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of Neb. Rev. Stat. § 79-238(4).

Each year the District shall randomly select at least three percent of the option enrollment applications accepted, for verification of free or reduced-price lunch status. The District may, in its discretion, audit to verify the free and reduced-price lunch status of all such applications.

**7. Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.**

**8. False or substantially misleading information submitted by a parent or guardian on an application to an option school district may be cause for the option school district to reject an application or to reject a previously accepted application if the rejection occurs prior to the student's attendance as an option student.**

**9. Students who relocate to a different resident school district after February 1, or whose option school district merges with another district effective after February 1, may submit an application to an option school district for attendance during the current or immediately following and subsequent school years. Such application does not require the release approval of the resident district and the option school district shall accept or reject such application within forty-five days and shall provide the resident school district with the name of the applicant within forty-five days of submission.**

**B. Cancellation. No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of the student's senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school district to cancel the enrollment option and return to the resident school district. Except as provided in the preceding sentence or the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district. In case of cancellation, the student's parents or legal guardian shall provide written notification to the school boards of the option and resident school districts on forms prescribed and furnished by the Department of Education in advance of such cancellation.**

**C. Waiver of Deadlines. Upon agreement of the school boards of the resident and option school districts, the deadlines for application and approval or rejection may be waived.**

**D. Acceptance by District.**

**1. The District shall accept or reject applications based on the capacity of the school building, the eligibility of the applicant for the school building program, the number of such applicants that will be accepted for a given school building, and in the order of selection priority as hereinbefore provided, and for applications which indicate that the student has an individualized education program under the Individuals with Disabilities Education Act or has been diagnosed with a disability as defined by Neb. Rev. Stat. § 79-1118.01, the capacity to provide the services and accommodations required.**

**2. The selection process shall be conducted on a "building by grade" basis. In the event the applications to a building exceed the capacity of such building, the selection shall be in the order of selection priority as hereinbefore provided.**

3. If all school buildings identified on an application are at maximum capacity but the District has buildings offering the same grades which have remaining capacity, the District may communicate with the student, parent or legal guardian and identify those school buildings within the District which have capacity, which the applicant may substitute for one or more school buildings identified on the submitted application.

4. If the applications received for a school building exceed the remaining capacity of the school building, the District shall establish a wait list for all excess applications in the order of selection priority as hereinbefore provided, and option enrollment slots which become available shall be filled from the wait list in order as provided in subsection IV of this Rule. All wait lists will become null and void prior to the first day of the next upcoming second semester.

5. The District may, in its discretion, accept option enrollment applications in excess of the maximum capacity of a school building, in the order of selection priority as hereinbefore provided.

6. The District shall notify, in writing, the parent or legal guardian of the student and the resident school district whether the application is accepted or rejected on or before April 1.

7. The following students shall be automatically accepted and the deadlines prescribed in Neb. Rev. Stat. § 79-234 shall be waived:

a. Students who relocate in a different school district but want to continue attending the original resident school district and who have been enrolled in the original resident school district for the immediately preceding two years.

b. Option students who relocate in a different school district but want to continue attending the option school district.

c. An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parents or legal guardian shall submit another application to the option school district's board of education which shall be automatically accepted, and the application deadlines shall be waived.

#### **E. Completion of Enrollment Processes.**

1. The parents or legal guardians of a student who has been accepted by the District for an option enrollment placement, must complete the District's defined enrollment processes by May 15. Failure to complete the District's defined enrollment processes by May 15 shall result in the forfeiture of the option enrollment slot by the applicant, and, if applicable, shall be filled from the District's wait list as provided in subsection IV of this Rule.

#### **IV. Wait Lists and Application Process for Newly Available Option Enrollment Slots After June 1.**

**A. The District will follow the following procedures when any option enrollment slots open or become newly available after June 1 and up through the day prior to the start of the next upcoming second semester.**

**B. Such option enrollment slots which become newly available shall first be filled from the wait list in order.**

**1. The District will communicate with the parent or legal guardian of the first student on the wait list about the newly available option enrollment slot and whether the parent or legal guardian desires to accept it. If the parent or legal guardian does not accept it, then the District shall similarly communicate with the parents or legal guardians of the next students on the wait list in order, until the newly available option enrollment slot is filled or the wait list is exhausted.**

**2. When a parent or legal guardian accepts such a newly available option enrollment slot they will have four business days to obtain and provide to the District a release approval from the resident school district on the application form prescribed and furnished by the Department of Education. The District may not fill any such newly available option enrollment slot without such a release approval.**

**3. When the release approval is provided to the District, the District shall immediately notify, in writing, the parent or legal guardian of the student and the resident school district that the application is accepted. The parent or legal guardian of the student so accepted for a newly available option enrollment slot must then complete the District's defined enrollment processes within three business days and the student shall immediately start attending school when the District's defined enrollment processes are completed, if school is then in session.**

**4. Failure to complete the District's defined enrollment processes within three business days and/or failure of the student to start attending school shall result in the forfeiture of the option enrollment slot by the applicant and such slot shall then be offered to the parents or legal guardians of the next student on the wait list in order.**

**5. All wait lists shall become null and void prior to the first day of the next upcoming second semester.**

**6. No such newly available option enrollment slots shall be filled from any wait lists after the start of the second semester and through May 31.**

**C. If there is no applicable wait list, then such option enrollment slots which become newly available may be filled via any new application or applications which may be received by the District therefor.**

- 1. Such applications will only be received after June 1 and up to the day prior to the start of the upcoming second semester. Such applications must be delivered to the office of the Superintendent or Superintendent's designee. Such applications shall contain a release approval from the resident school district on the application form prescribed and furnished by the Department of Education. The District may not accept or approve any such applications without such a release approval.**
- 2. The application requirements as provided in subsections III(A)(1), (2), (4), and (6) through (9) of this Rule must be complied with.**
- 3. Such applications shall only be received for the program, class, grade level, or school building which the District has determined to have then available option enrollment slots, and acceptance shall be based upon the date and time of submittal of the application to the District with the earliest date and time of submittal receiving priority.**
- 4. If there are multiple and simultaneous applications submitted, the District shall accept reject such applications based on the number of option enrollment slots which the District has determined are then available for option enrollment, the eligibility of the applicant for the school building program, and in the order of selection priority as provided in subsections II(B)(1)(a) through (d) of this Rule. If such option enrollment slots still exist after the completion of the selection priority process, then those slots shall be filled on a random drawing basis from the existing applications on file. The District shall not establish a wait list for any excess applications.**
- 5. The District shall immediately notify, in writing, the parent or legal guardian of the student and the resident school district whether the application is accepted or rejected.**
- 6. The parent or legal guardian of the student so accepted for a newly available option enrollment slot must then complete the District's defined enrollment processes within three business days and the student shall immediately start attending school when the District's defined enrollment processes are completed, if school is then in session.**
- 7. Failure to complete the District's defined enrollment processes within three business days and/or failure of the student to start attending school shall result in the forfeiture of the option enrollment slot by the applicant and such slot shall remain open.**

**V. Notification of Rejection of Application or Request for Release and Right to Appeal.**

If an application or request for release is rejected by the District in its capacity as an option or resident school district, the District shall provide written notification sent by certified mail to the parent or guardian stating the specific reasons for the rejection including, for students with an individualized education program under the Individuals with Disabilities Education Act or with a diagnosed disability as defined in Neb. Rev. Stat. § 79-1118.01, a description of the services and accommodations required that the District does not have the capacity to provide, and the process for appealing such rejection to the State Board of Education. The parent or legal guardian may appeal the rejection to the State Board of Education within thirty days after the date the notification of the rejection was received by the parent or legal guardian.

#### **VI. Treatment of Option Students.**

For purposes of all duties, entitlements, and rights established by law, including special education as provided in Neb. Rev. Stat. § 79-1127, option students shall be treated as resident students of the option school district.

#### **VII. Accepting Credits.**

If the District is the option school district, it will accept credits toward graduation that were awarded by the resident school district. Further, the District shall award diplomas to option students if the student meets the District's graduation requirements.

#### **VIII. Transportation or Reimbursement.**

This section constitutes the District's specific standards for providing transportation for option students for the 2017-2018 school year and the school years thereafter.

- A. Except as otherwise provided by law, Neb. Rev. Stat. § 79-611 and District Rule 3811.1 do not apply to the transportation of option students.
- B. The parent or legal guardian of the option student shall be responsible for transportation except as herein provided.
- C. Option students who qualify for free lunches shall be eligible for transportation reimbursement as described in Neb. Rev. Stat. § 79-611 from the District, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily established mileage rate provided in Neb. Rev. Stat. § 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles.
- D. For option students verified as having a disability as defined in Neb. Rev. Stat. § 79-1118.01, the transportation services set forth in Neb. Rev. Stat. § 79-1129 shall be provided by the resident school district.

#### **IX. Definitions.**



- A. "Department of Education" shall mean the Nebraska State Department of Education.
- B. "Enrollment Option Program" shall mean the program established in Neb. Rev. Stat. § 79-234.
- C. "Learning Community" shall mean the Learning Community of Douglas and Sarpy Counties.
- D. "Option school district" shall mean the public school district that a student chooses to attend other than the student's resident school district.
- E. "Option student" shall mean a student that has chosen to attend an option school district.
- F. "Parents" shall mean, in the case of parents who are divorcing or divorced, the custodial parent.
- G. "Resident school district" shall mean the public school district in which a student resides or the school district in which the student is admitted as a resident of the school district pursuant to Neb. Rev. Stat. § 79-215.
- H. "Siblings" shall mean all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.
- I. "Student who contributes to the socioeconomic diversity of enrollment" shall mean a student who does not qualify for free or reduced-price lunches when based upon the certification pursuant to Neb. Rev. Stat. § 79-2120, the school building the student will be assigned to attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the Learning Community or provides free meals to all students pursuant to the community eligibility provision, or a student who qualifies for free or reduced-price lunches based on information collected voluntarily from parents and guardians pursuant to Neb. Rev. Stat § 79-237 when, based upon the certification pursuant to Neb. Rev. Stat. § 79-2120, the school building the student will be assigned to attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the Learning Community and does not provide free meals to all students pursuant to the community eligibility provision.

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January 8, 1996

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August 6, 2001

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**August 21, 2023**

**Reaffirmed**

**April 7, 2008**

**Related Policies and Rules**

**[5100: Enrollment of Students](#)**

**Legal Reference**

**Neb. Rev. Stat. § 79-232 et seq.**

**Title 92, Nebraska Administrative Code, Chapter 19**

**Neb. LB 705, Sections 55 and 56 (2023)**