

ROSEVILLE AREA SCHOOLS
Independent School District No. 623

Policy 564 – Nonresident Open Enrollment

1.0 Nonresident

1.1 Nonresident students may not attend the schools of Independent School District No. 623, Roseville Area Schools unless one of the following five exceptions applies:

1.1.1 they have open enrolled in accordance with the enrollment option procedures set forth in Minnesota statute;

1.1.2 they have secured the consent of both the District's school board and the school board of the resident district in accordance with Minnesota statute;

1.1.3 they are eligible to enroll in the District under Minnesota's Graduation Incentives Act;

1.1.4 they are homeless under the law; or

1.1.5 they qualify under another provision of this policy or a specific legal provision that permits them to attend school in the District as a nonresident student.

1.2 Open Enrollment: The District desires to participate in the Enrollment Options Program established by Minnesota Statute. It is the purpose of this policy to set forth the application and exclusion procedures used by the school district in making said determination.

1.2.1 Eligibility. Applications for enrollment under the Enrollment Options (Open Enrollment) Law will be approved provided that acceptance of the application will not exceed the capacity of a program, class, grade level, or school building.

1.2.1.1 Capacity will be determined by applying the following criteria:

- Current or projected enrollment
- Current or projected staffing
- Recommended pupil/teacher ratio

1.2.1.2 In considering the capacity of a grade level, the District may only limit the enrollment of nonresident students to a number not less than the lesser of: (a) one percent of the total enrollment at each grade level in the District; or (b) the number of District resident students at that grade level enrolled in a nonresident school district in accordance with Minnesota Statute.

Policy 564 – Nonresident Open Enrollment

- 1.2.1.2.1 The District maintains the right to determine the school of attendance.
 - 1.2.1.3 The applicant is not otherwise excluded by action of the District because of previous conduct in another school district.
 - 1.2.2 Standards that may not be used for rejection of application. The District may not use the following standards in determining whether to accept or reject an application for open enrollment;
 - 1.2.2.1 previous academic achievement of a student;
 - 1.2.2.2 athletic or extracurricular ability of a student;
 - 1.2.2.3 disabling conditions of a student;
 - 1.2.2.4 a student's proficiency in the English language;
 - 1.2.2.5 the student's district of residence; or
 - 1.2.2.6 previous disciplinary proceedings involving the student, except the District may refuse to allow a student who has been expelled from another Minnesota school district to enroll during the term of expulsion, if the student was expelled for: (a) possessing a dangerous weapon at school or a school function; (b) possessing or using an illegal drug at school or a school function; (c) selling or soliciting the sale of a controlled substance while at school or a school function; or (d) committing a third-degree assault as described in Minnesota statute. In addition, nothing in this policy precludes the school district from proceeding with exclusion as set out in Section 1.2.4 of this policy.
 - 1.2.3 Application. The student and parent or guardian must complete an Application for Enrollment School District Enrollment Options Program developed by the Minnesota Department of Education (copy attached hereto).
 - 1.2.4 Exclusion.
 - 1.2.4.1 Administrator's initial determination. If a District administrator knows or has reason to believe that an applicant has engaged in conduct that has or could

Policy 564 – Nonresident Open Enrollment

subject the applicant to expulsion or exclusion under law or District policy, the administrator will transmit the application to the Superintendent with a recommendation of whether exclusion proceedings should be initiated.

1.2.4.2 Superintendent's review. The Superintendent may make further inquiries. If the Superintendent determines that the applicant should be admitted, he or she will notify the applicant and the school board chair. If the Superintendent determines that the applicant should be excluded, the Superintendent will notify the applicant and determine whether the applicant wishes to continue the application process. Although an application generally may not be rejected based on previous disciplinary proceedings, the school district may refuse to allow a student who has been expelled from another Minnesota school district to enroll during the term of expulsion, if the student was expelled for: (a) possessing a dangerous weapon at school or a school function; (b) possessing or using an illegal drug at school or a school function; (c) selling or soliciting the sale of a controlled substance while at school or a school function; or (d) committing a third-degree assault as described in Minnesota statute. In addition, for other types of conduct the school district reserves the right to initiate exclusion procedures pursuant to the Minnesota Pupil Fair Dismissal Act as warranted on a case-by-case basis.

1.3 International Exchange Students who enter the country in a J-1 VISA status and follow the regulations 564-R may attend Roseville Area High School (Grades 9-12).

1.4 Foreign Students (Grades 9-12) in F-1 VISA status may attend Roseville Area High School by paying the full, unsubsidized per capita cost of education for the intended period of study and are limited to a maximum of 12 months of study. (564-R).

1.4.1 Nonresident tuition charges for senior high school students shall be set annually at a rate per pupil per term, payable prior to completion of I-20 form.

2.0 Students Moving Into District During School Year

2.1 If a family has a house under construction in the district that will be ready for occupancy sometime during a given school year (or has signed a

Policy 564 – Nonresident Open Enrollment

lease for a house or an apartment for occupancy sometime during that period), a child in that family may attend the Roseville Area Schools on a Reciprocal Aid Agreement between District 623 and the resident district.

3.0 Students Moving Out of District During School Year

- 3.1 If a student is in his/her junior or senior year at Roseville Area High School as a resident in the District and then moves out of the District, he/she may be permitted to enroll as a senior and complete his/her senior year as a nonresident student on a Reciprocal Aid Agreement between District 623 and the resident district.
- 3.2 If a student at any grade level moves out of the District during the school year, he/she may complete the current school year on a Reciprocal Aid Agreement between District 623 and the resident district. Arrangements must be made for enrollment as an open enrollment student for the following year. Such arrangement can be made only if the school principal certifies that no classes will be overcrowded by the additional enrollment (except that a senior may enroll as a nonresident as specified above).
- 3.3 Whenever a student is enrolled as a nonresident student, it is the responsibility of the parents to provide transportation from the nonresident home to the district.

4.0 Students with Disabilities

In addition to the provisions described above, when a nonresident student has a disability, as defined in Minnesota Statute, and that student is requesting to attend a District 623 school, the district where the student's legal guardians reside must pay for the costs of all special education and related services required for that student.

5.0 Standards for Determining Whether a student is a Resident of the District

- 5.1 A student who resides with a parent or legal guardian is considered to be a resident of the district in which the parent or legal guardian resides.
- 5.2 If a student resides with someone other than a parent or legal guardian and in a different district than the parent or legal guardian, the parent's place of residence may be a relevant factor, but it is not determinative. Rather, the general purpose of the student's presence within the district is the controlling factor. Op. Atty. Gen. 169p (Minn. Feb. 6, 1985); Op. Atty. Gen. 180g (Minn. Dec. 27, 1928).

Policy 564 – Nonresident Open Enrollment

- 5.2.1 If a student is residing in a school district with someone other than a parent or legal guardian for the general purpose of attending school in the district or receiving benefits provided by the district, and the care and attention which the student receives is incidental to that purpose, the student is not considered to be a resident of the district. Op. Atty. Gen. 169p (Minn. Feb. 6, 1985).
 - 5.2.2 If a student is residing in a school district with someone other than a parent or legal guardian for the general purpose of securing a home or receiving the type of care and support that is usually provided in a home, the student is considered to be a resident of the district.
 - 5.2.3 All the surrounding facts and circumstances must be taken into consideration when determining the general purpose of a regular education student's presence in the District. For example, consideration should be given to facts such as: who is providing care and support for the student; over what period of time is such care and support being provided; and whether the student lives with a parent or legal guardian on the weekends.
- 6.0 Procedures for Determining if Student is a Resident and for Barring Attendance of Non-Resident Students
 - 6.1 If an administrator in the District has reasonable grounds to believe that a student is not a resident and is seeking to attend or is attending school in the District and does not meet one of the exceptions stated in this policy, the administrator will refer the matter to the Assistant Superintendent.
 - 6.2 The Assistant Superintendent or his/her designee will use the procedures stated in this policy to initiate action to prohibit the student from enrolling or further attending school in the District, until such time as the student can establish through appropriate evidence that the student is a resident of the District or meets one of the exceptions stated in this policy.
 - 6.2.1 Examples of appropriate evidence include, but are not limited to, a current lease agreement; a recent mortgage statement; a current property insurance statement; a current property tax statement; a recent purchase agreement; a recent moving bill denoting the new address; recent utility bills; a current library card; a recent voter registration card; a current driver's license; or a current state identification card. The administrator may take action to verify the accuracy of any evidence provided by a student or parent.

Policy 564 – Nonresident Open Enrollment

- 6.2.2 The District will not deny free admission to any homeless children of school age. Generally, individuals are considered homeless if they: (1) lack a fixed, regular, and adequate nighttime residence; (2) have a primary nighttime residence that is a shelter or other facility designed to provide emergency or temporary living arrangements; or (3) have a primary nighttime residence that is not designed for, or ordinarily used as, a regular sleeping accommodation for humans.
- 6.3 The District will not prohibit a student who is suspected of being a nonresident from attendance in the District or from enrolling in the District without providing the student and parent or guardian, if the student is less than eighteen years of age, with notice and an opportunity of due process as described in this section.
- 6.4 Written Notice. To initiate action to prohibit a student from further attendance or from enrolling in the District on the ground that the student is not a resident and does not meet any of the exceptions stated in this policy, the Assistant Superintendent or his/her designee must serve written notice on the student and the parent or guardian, if the student is less than eighteen years of age. The written notice must:
- 6.4.1 state that the District has reasonable grounds to believe that the student is not a resident of the District;
 - 6.4.2 provide a basic description of the evidence that indicates that the student is not a resident of the District;
 - 6.4.3 state that the student and the parent or guardian, if the student is less than eighteen years of age, may attend an informal hearing where the student will be given an opportunity to present his/her version of the facts and to produce evidence showing that the student is a resident of the District;
 - 6.4.4 provide the date, time, and place of the informal hearing, which must be held within ten (10) calendar days of serving the notice, unless the parties mutually agree to extend this time line; and
 - 6.4.5 state that if the student and parent fail to attend the informal hearing or to produce evidence showing that the student is a resident, the District, will conclude that is not a resident, and the student will not be permitted to attend school in the District.
- 6.5 Service of Written Notice. The notice in paragraph 6.4 may be served personally or by mail. Service by mail is complete upon mailing.

Policy 564 – Nonresident Open Enrollment

- 6.6 Opportunity to Be Heard. The informal hearing referred to in paragraph 6.4 will be held at a time and place determined by the District. The informal hearing will take place before the Assistant Superintendent or his/her designee. During the informal hearing, the Assistant Superintendent or his/her designee will provide the student and the student's parent or guardian with a basic description of the evidence which indicates that the student is not a resident of the District. The student and the student's parent, guardian, or representative will then be given an opportunity to present the student's version of the facts and to produce any evidence showing that the student is a resident of the District.
- 6.7 Written Decision. Within ten (10) school days after conducting the informal hearing, the Assistant Superintendent or his/her designee will issue a written decision which contains findings and a conclusion. If the Assistant Superintendent or his/her designee concludes that the student is not a resident and that the exceptions stated in this policy do not apply, the written decision must state that unless an appeal to the school board is received by the Superintendent within ten (10) calendar days, the student will be prohibited from further attending school in the District on the eleventh (11th) calendar day following the date of the written decision or until such time as the student can establish by appropriate evidence that the student is a resident of the District or meets one of the five exceptions identified in this policy.
- 6.7.1 The written decision must be served personally or by mail on the student and the parent or guardian, if the student is less than eighteen years of age. Service is effective upon mailing. The Assistant Superintendent or designee may also attempt to notify the student or parent of the decision by telephone.
- 6.8 Appeal to School Board. The student and the parent or guardian, if the student is less than eighteen years of age, may appeal an adverse decision to the school board in writing. Any appeal must be received by the Superintendent within ten (10) calendar days after service of the Assistant Superintendent or designee's decision. The failure to appeal within ten (10) calendar days shall be deemed to constitute acquiescence with the decision of the Assistant Superintendent or designee.
- 6.8.1 The decision of the Assistant Superintendent or designee will not be implemented during any appeal to the school board. If no appeal has been received, the decision of the Assistant Superintendent or designee will take effect on the eleventh (11) calendar day after service of the decision.

Policy 564 – Nonresident Open Enrollment

- 6.9 School Board Decision. Within (30) thirty calendar days after receiving a timely appeal, the school board will serve the student and parent or guardian, if the student is less than eighteen years of age, with a written decision affirming, reversing, or modifying the decision of the Assistant Superintendent or designee. Service may be by mail or personal delivery. Service is effective upon mailing.
- 6.9.1 Before issuing its decision, the school board may consider additional arguments from the parties and any new evidence as it sees fit. Absent clear error or new evidence, the board will sustain the decision of the Assistant Superintendent or designee.
- 6.9.2 The school board's decision will be implemented pending the outcome of any further appeal.
- 7.0 A good faith violation of any provision of this policy is not a defense to determination that a student is barred from attending school in the District, unless the student can demonstrate that the violation denied the student due process of law or resulted in an incorrect determination of the student's residency status.

Legal References:

Minnesota Statutes section 124D.03: Enrollment Options Program
Minnesota Statutes section 124D.08: School Boards' Approval to Enroll in Nonresident District
Minnesota Statutes section 124D.68: Graduation Incentives Program
Minnesota Statutes section 609.223, subd: Assault in Third Degree
Minnesota Statutes sections 121A.40-121A.56: Pupil Fair Dismissal Act
Minnesota Statutes section 125A.02: Child with Disability Defined

Adopted: 10/14/71
Revised: 04/25/06