

## SENATE COMMITTEE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 711

## AN ACT

To repeal sections 167.020 and 167.151, RSMo, and to enact in lieu thereof fourteen new sections relating to admission of nonresident pupils, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 167.020 and 167.151, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 167.020, 167.151, 167.1200, 167.1205, 167.1210, 167.1211, 167.1212, 167.1215, 167.1220, 167.1224, 167.1225, 167.1227, 167.1229, and 167.1230, to read as follows:

167.020. 1. As used in this section, the term "homeless child" or "homeless youth" shall mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:

(1) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;

(2) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection.

2. (1) In order to register a pupil, the pupil or the parent or legal guardian of the pupil ~~or the pupil himself or herself~~ shall provide, at the time of registration, one of the following:

~~[(1)]~~ (a) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district or, in the case of a private school student suspected of having a disability under the Individuals With Disabilities Education Act, 20 U.S.C. Section ~~[1412,]~~ 1411 et seq., as amended, that the student attends private school within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian. For instances in which the family of a student living in Missouri co-locates to live with other family members or live in a military family support community because one or both of the child's parents are stationed or deployed out of state or deployed within Missouri under active duty orders under Title 10 or Title 32 of the United States Code, the student may attend the school district in which the family member's residence or family support community is located. If the active duty orders expire during the school year, the student may finish the school year in that district;

~~[(2)]~~ (b) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days; or

~~[(3)]~~ (c) Proof that one or both of the child's parents are being relocated to the state of Missouri under military orders.

(2) In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within five working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board or committee of the board appointed by the president and which shall have full authority to act in lieu of the board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board or committee of the board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board or committee of the board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board or committee of the board on a request for a waiver under this subsection may appeal such decision to the

circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child or youth, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151 or sections 167.1200 to 167.1230, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline

records required by subsection 9 of section 160.261 from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g(b) (1) (E), as amended.

8. If one or both of a child's parents are being relocated to the state of Missouri under military orders, a school district shall allow remote registration of the student and shall not require the student or the parent or legal guardian of the student [or the student himself or herself] to physically appear at a location within the district to register the student. Proof of residency, as described in this section, shall not be required at the time of the remote registration but shall be required within ten days of the student's attendance in the school district.

167.151. 1. The school board of any district, in its discretion, may admit to the school pupils not entitled to free instruction and prescribe the tuition fee to be paid by them, except as provided in subdivision (2) of subsection 3 of this section [and in]; sections 167.121, 167.131, 167.132, and 167.895; and sections 167.1200 to 167.1230.

2. Orphan children, children with only one parent living, and children whose parents do not contribute to

their support-if the children are between the ages of six and twenty years and are unable to pay tuition-may attend the schools of any district in the state in which they have a permanent or temporary home without paying a tuition fee.

3. (1) For all school years ending on or before June 30, 2023, any individual who pays a school tax in any other district than that in which such individual resides may send such individual's children to any public school in the district in which the tax is paid and receive as a credit on the amount charged for tuition the amount of the school tax paid to the district; except that any individual who owns real estate of which eighty acres or more are used for agricultural purposes and upon which such individual's residence is situated may send such individual's children to public school in any school district in which a part of such real estate, contiguous to that upon which such individual's residence is situated, lies and shall not be charged tuition therefor; so long as thirty-five percent of the real estate is located in the school district of choice. The school district of choice shall count the children in its average daily attendance for the purpose of distribution of state aid through the foundation formula.

(2) For all school years beginning on or after July 1, 2023, any current owner of residential real property or agricultural real property or a named beneficiary of a trust that currently owns residential real property or agricultural real property and that pays a school tax in a district or districts other than the district in which such current owner or current beneficiary resides may send up to four of such owner's or beneficiary's children to a public school, excluding a charter school, in any district in which such owner or trust pays such school tax. For purposes of this subdivision, "residential real property" shall not

include any multifamily residential property which exceeds four units. An owner or a named beneficiary of a trust that currently owns residential real property shall not be permitted under this subdivision to send their child to a district outside of the county in which they currently reside. Such owner or beneficiary shall send thirty days' written notice to all school districts involved specifying which school district each child will attend. Such owner or beneficiary shall also present proof of the owner's or trust's annual payment of at least two thousand dollars of school taxes levied on the real property specified in this subdivision within such school district and ownership of the specified real property for not less than the immediately preceding four consecutive years. Neither the resident nor nonresident districts shall be responsible for providing transportation services under this subdivision. The school district attended shall count a child attending under this subdivision in its average daily attendance for the purpose of distribution of state aid under chapter 163, except that such nonresident students shall not be counted in the district's average daily attendance for the purposes of determining eligibility for aid payments under section 163.044.

4. For any school year ending on or before June 30, 2023, any owner of agricultural land who, pursuant to subsection 3 of this section, has the option of sending [his] such individual's children to the public schools of more than one district shall exercise such option as provided in this subsection. Such person shall send written notice to all school districts involved specifying to which school district [his] such individual's children will attend by June thirtieth in which such a school year begins. If notification is not received, such children shall attend the

school in which the majority of [his] such individual's property lies. Such person shall not send any of [his] such individual's children to the public schools of any district other than the one to which [he] such individual has sent notice pursuant to this subsection in that school year or in which the majority of [his] such individual's property lies without paying tuition to such school district.

5. If a pupil is attending school in a district other than the district of residence and the pupil's parent is teaching in the school district or is a regular employee of the school district which the pupil is attending, then the district in which the pupil attends school shall allow the pupil to attend school upon payment of tuition in the same manner in which the district allows other pupils not entitled to free instruction to attend school in the district. The provisions of this subsection shall apply only to pupils attending school in a district which has an enrollment in excess of thirteen thousand pupils and not in excess of fifteen thousand pupils and which district is located in a county with a charter form of government which has a population in excess of six hundred thousand persons and not in excess of nine hundred thousand persons.

167.1200. 1. Sections 167.1200 to 167.1230 shall be known and may be cited as the "Public School Open Enrollment Act".

2. As used in sections 167.1200 to 167.1230, the following terms mean:

(1) "Department", the department of elementary and secondary education;

(2) "Local education agency" or "LEA", any school district and any charter school that has declared itself a local education agency;



(3) "Nonresident local education agency" or "nonresident LEA", a local education agency other than a transferring student's resident LEA;

(4) "Parent", a transferring student's parent, guardian, or other person having custody or care of the student;

(5) "Resident local education agency" or "resident LEA", the local education agency 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, or in the case of a student who attends a charter school, such charter school;

(6) "Sibling", each of two or more children having a parent in common by blood, adoption, marriage, or foster care;

(7) "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;

(8) "Transferring student", a child who transfers to a nonresident LEA through a public school open enrollment program under sections 167.1200 to 167.1230 and who:

(a) Is beginning kindergarten in the child's resident LEA;

(b) Is a student enrolled in a school or a local education agency in kindergarten to grade twelve who immediately prior to transferring has been enrolled in a local education agency in the student's resident LEA;

(c) Was enrolled in a school other than a school in a local education agency;

(d) Was attending an FPE school, as such term is defined in section 167.013; or

(e) Has moved to this state from another state and has not yet enrolled in a school;

(9) "Transfer year", the school year in which a transferring student attends school in a nonresident LEA.

167.1205. 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 in a nonresident LEA subject to the limitations under section 167.1225. Such program is designed to improve quality instructional and educational programs by providing opportunities including, but not limited to, the following:

(1) Increasing parental involvement for students whose parents work in other LEAs;

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

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

2. (1) LEAs shall not be required to participate in the public school open enrollment program.

(2) (a) Each LEA shall, before November first of each year, indicate whether the LEA will participate in the public school open enrollment program created in sections 167.1200 to 167.1230 in the school year beginning on July first of the following year.

(b) If an LEA participates in the public school open enrollment program, the LEA shall receive transferring students for the full school year in which the LEA participates.

(3) (a) An LEA may restrict the number of students who may transfer to a nonresident LEA under sections

167.1200 to 167.1230 in each school year to the maximum of five percent of the previous school year's enrollment for the LEA.

(b) A student seeking to transfer to a nonresident LEA shall be eligible to transfer under sections 167.1200 to 167.1230 and shall count as part of the enrollment for such student's resident LEA for the purposes of the transfer maximum described in paragraph (a) of this subdivision if, in the school year before the school year in which the student seeks to transfer, such student:

a. Was enrolled in a school other than an LEA;

b. Was attending an FPE school, as such term is defined in section 167.013; or

c. Has moved to this state from another state and has not yet enrolled in a school.

(4) (a) The department shall develop and maintain an online resource to facilitate applications for a public school open enrollment transfer as described in sections 167.1200 to 167.1230. Such resource shall enable a nonresident LEA to ensure that the LEA does not accept a transfer application if the acceptance of such transfer application would cause the transferring student's resident LEA to exceed the transfer maximum for the preceding school year.

(b) The online resource shall provide a searchable public database of the number of transfers offered in each participating LEA. The database shall list allowable transfer numbers published under section 167.1215 for each LEA for each school building, grade level, classroom, and program.

3. Sections 167.1200 to 167.1230 shall not be construed to require an LEA to add teachers, staff, or

classrooms or to in any way exceed the requirements and standards established by existing law or the nonresident LEA.

4. (1) The department or another entity skilled in policy development shall develop a model policy for determining the number of transfers available under section 167.1215 and establishing specific standards for acceptance and rejection of transfer applications under section 167.1227. Regardless of whether an LEA participates in the public school open enrollment program, the governing body of each LEA shall, by resolution, adopt the model policy with any changes necessary for a particular LEA's needs.

(2) The model policy's determination of the number of transfers available shall require each LEA to define the term "insufficient classroom space" for that LEA.

(3) 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;

(e) The LEA's projected enrollment; and

(f) Any characteristics of specific programs affected by additional or fewer students attending because of transfers under the public school open enrollment program, provided that special education programs shall not be considered under this paragraph.

(4) 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 LEA; or  
(b) Has made an application for enrollment in the same nonresident LEA.

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

(a) Academic achievement;  
(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 LEA shall be included.

(6) An LEA 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 LEA shall:

(1) Accept credits toward graduation that were awarded by another LEA to a transferring student; and

(2) Award a diploma to a transferring student if the student meets the nonresident LEA's graduation requirements.

6. The governing body of each LEA shall cause the information about the public school open enrollment program to be posted on the LEA website and in the student handbook to inform parents of students of the:

(1) Availability of the program established under sections 167.1200 to 167.1230;

(2) Application deadline; and

(3) 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 LEA 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 described under section 167.1220.

8. A nonresident LEA 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 under subsection 2 of section 160.261. 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 LEA's governing body.

9. A student who is denied a transfer under subsection 8 of this section has the right to an in-person meeting with the nonresident LEA's governing body. The nonresident LEA shall develop common standards for determining disruptive behavior that shall include, but not be limited to, criteria under section 160.261.

10. (1) As used in this subsection, "school days of enrollment" does not include enrollment in summer school, and "varsity" means the highest level of competition offered by one school or LEA against the highest level of competition offered by an opposing school or LEA.

(2) (a) Except as provided in this paragraph, a student who participates in open enrollment for purposes of attending a grade in grades nine to twelve in an LEA other than the resident LEA is ineligible to participate in interscholastic athletics for three hundred sixty-five days unless the student's case meets the standards under the following exceptions:

a. If the transfer does not involve undue influence and is not for athletic reasons, a student may be eligible

immediately at the school of the student's choice upon first entering when:

(i) The student is promoted from grade six to grade seven;

(ii) The student is promoted from grade eight to grade nine and the student is eligible in all other respects; or

(iii) The student completes the highest grade in an elementary school that is not a part of a system supporting a high school and the student is eligible in all other respects; or

b. If a student transfers schools under circumstances that do not meet the athletic eligibility requirements under sections 167.1200 to 167.1230, such student may be granted eligibility to participate in interscholastic athletics as hereinafter restricted if the student qualifies under the following terms and conditions:

(i) A student whose name has been included on a school eligibility roster at any level for a given sport during the twelve calendar months preceding the date of such transfer shall be eligible only for subvarsity competition in such sport for three hundred sixty-five days after the date of transfer. A student may have unrestricted eligibility in all other sports in which such student's name has not appeared on a school eligibility roster;

(ii) A student who has attended an LEA that does not sponsor interscholastic athletics but who has participated in organized nonschool competition during the twelve calendar months preceding the date of such transfer shall be eligible only for subvarsity competition in such sport for three hundred sixty-five days after the date of transfer. A student may have unrestricted eligibility in all other sports in which such student did not participate; or

(iii) Eligibility may be granted as described in item (i) of this subparagraph if the athletic eligibility is approved by the principals of both the resident and nonresident LEAs and if there is no athletic purpose involved in the transfer. The student shall be ineligible for all sports for three hundred sixty-five days after the date of transfer if either or both principals decline to approve athletic eligibility.

(b) Nothing in this section or section 167.1210 shall prevent a statewide athletic association that provides oversight for athletic or activity eligibility for students from imposing a stricter penalty upon any transferring student who is determined to have been unduly influenced to participate in or not to participate in the public school open enrollment program outlined in sections 167.1200 to 167.1230.

167.1210. 1. A student who applies to enroll in multiple nonresident LEAs and accepts a public school open enrollment program transfer to a nonresident LEA shall accept only one such transfer per school year.

2. (1) A student who accepts a public school open enrollment program transfer to a nonresident LEA shall commit to attend and take all courses through the nonresident LEA for at least two school years. The student may meet with the governing body of the nonresident LEA to be released from such commitment if extenuating circumstances arise or if the student's resident LEA changes. At least one course per semester shall be delivered by the nonresident LEA in-seat.

(2) If a transferring student returns to the student's resident LEA, the student's transfer shall be void and the student shall reapply if the student seeks a future public school open enrollment program transfer. No transferring



student who returns to the student's resident LEA shall reapply for a future transfer under this subdivision until after the student has been enrolled in and completed a full school semester in a school in the student's resident LEA.

(3) A transferring student with a school attendance percentage rate below eighty percent for any one quarter shall be notified of such rate and if such student's attendance rate in the subsequent quarter does not reach at least ninety percent the student's transfer and eligibility to attend the nonresident LEA may be voided by the LEA.

3. (1) Except as otherwise provided in this subsection, a transferring student attending school in a nonresident LEA may complete all remaining school years in the nonresident LEA without reapplying each school year.

(2) A sibling of a transferring student who continues enrollment in a nonresident LEA may enroll in or continue enrollment in that nonresident LEA if the LEA has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law or the policy of the nonresident LEA and the sibling has no discipline issues as described in section 167.1205.

4. (1) The transferring student or the student's parent is responsible for the transportation of the student to and from the school in the nonresident LEA where the student is enrolled.

(2) A nonresident LEA 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 LEA if the LEA has capacity available on a bus serving that location.

5. Notwithstanding the provisions of chapter 160, chapter 163, or federal calculations of military impact aid

to the contrary, for the purposes of determining state and federal aid, a transferring student shall be counted as a resident pupil of the nonresident LEA in which the student is enrolled, except that the provisions of subsections 15 to 18 of section 160.415 shall not apply to any nonresident student transferring to a charter school.

6. Nothing in sections 167.1200 to 167.1230 shall be construed to relieve any resident LEA of its responsibility to pay any costs required under section 162.705 or 162.740.

167.1211. If a nonresident student receives special educational services and participates in the public school open enrollment program, the nonresident LEA 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 LEA annual secretary of the board report for the year in which expenditures are claimed.

167.1212. 1. There is hereby created in the state treasury the "Parent Public School Choice Fund", which shall consist of appropriations made by the general assembly to provide moneys for the public school open enrollment program. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 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 LEAs under chapter 160 or chapter 163 and shall be used solely to compensate LEAs 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.

167.1215. 1. Before November first annually, each LEA shall set the number of transfer students the LEA is willing to receive for the following school year under sections 167.1200 to 167.1230. The LEA may create criteria for the acceptance of students including, but not limited to, the number of students by building, grade, classroom, or program.

2. (1) Each LEA 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 LEA to exceed the published number.

(2) The LEA shall delineate such published number by building, grade, classroom, or program if such criteria for acceptance have been set by the LEA.

3. (1) The online resource created and maintained by the department as described in section 167.1205 shall include a waiting list for applications to nonresident LEAs if a transfer cannot be accepted because the number of transfers applied for exceeds the number of transfers available. The online resource shall notify each applicant that the applicant's transfer application may be subject to placement on such waiting list if such transfer application is included in a number of transfer applications that exceeds the number of transfers available.

(2) 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 LEA;
- (b) Children of an active duty member of the Armed Forces of the United States;
- (c) Children of LEA employees;
- (d) Students who had previously attended school in the LEA but whose parents have moved out of the LEA; and
- (e) Students whose parents present an employment circumstance for which an open enrollment transfer would be in the student's best interest.

(3) A parent of a student on the waiting list shall be informed by the department of the details of the operation of the list and whether the parent will be required to refile a timely application for open enrollment in order to remain on the waiting list.

167.1220. 1. If a student seeks to attend a school in a nonresident LEA under sections 167.1200 to 167.1230, the student's parent shall submit an application:

(1) To the department, using the online resource described in section 167.1205, beginning on November fifteenth in the school year before the school year in which

the student seeks to begin the fall semester at the nonresident LEA;

(2) On a form approved by the department that contains the student's necessary information for enrollment in another LEA; and

(3) Before January first of the school year before the school year in which the student seeks to begin the fall semester at the nonresident LEA.

2. Upon receiving an application under subsection 1 of this section, the department shall assign a unique identifying number to the application.

3. On or before January fifteenth, the department shall:

(1) Conduct a lottery of eligible applications to determine which student transfers will be approved, subject to the conditions for approval under sections 167.1200 to 167.1230; and

(2) Notify the nonresident LEA of such applications that the department has approved for transfer.

4. (1) The governing body of the nonresident LEA shall request from all schools previously attended by the student within the last twelve months including the student's resident LEA, if applicable:

(a) Those records required by LEA policy for student transfer, including any applicable special education records;

(b) Those discipline records required by subsection 9 of section 160.261; and

(c) Records of any behavioral risk assessment completed on the student.

(2) An LEA that receives a request for such records from another LEA enrolling a student that had previously attended a school in such LEA shall respond to such request within five business days of receiving the request.

(3) The officials and authorities to whom such information is disclosed shall comply with applicable restrictions set forth in 20 U.S.C. Section 1232g(b) (1) (E), as amended.

5. (1) The governing body of the nonresident LEA shall within ten business days:

(a) Review each application as received from the department;

(b) Determine whether such LEA shall accept or reject such application based on the standards in the LEA's policy for open enrollment under sections 167.1200 to 167.1230 adopted by the governing body and a review of records provided under subsection 4 of this section; and

(c) Inform the department of such determination.

(2) If the nonresident LEA rejects an application, the department shall send the next application on the waiting list to the nonresident LEA for consideration.

6. (1) (a) Before March first of the school year before the school year in which the student seeks to enroll in a nonresident LEA under sections 167.1200 to 167.1230, the nonresident LEA's governing body shall notify the department as to whether the student's application has been accepted or rejected through the online resource created under section 167.1205.

(b) Within three business days after sending notifications to the resident LEA and the nonresident LEA, the department shall notify the parent whether the student's application has been accepted or rejected by the nonresident LEA. The notification shall be sent electronically and by first-class mail to the address on the application.

(2) If the application is rejected, the department's notification shall state the receiving nonresident LEA's

reason for the rejection and provide instructions on the right of the student to appeal under section 167.1227.

(3) If the application is accepted, the department shall state in the notification:

(a) A reasonable deadline before which the student shall enroll in the nonresident LEA and after which the acceptance notification is void; and

(b) Instructions for the procedures established for enrollment of students with special needs as provided in section 167.1224 in the nonresident LEA.

(4) If the application is accepted, the department shall notify:

(a) The resident LEA of the student's participation; and

(b) The student and the student's parent of the opportunity to participate in an anonymous survey provided by the department regarding all reasons for the student's and parent's interest in participating in the public school open enrollment program.

7. The department shall publish an annual report based on the anonymous survey conducted under subdivision (4) of subsection 6 of this section, at the statewide and LEA levels, that provides data at the statewide and LEA levels of sufficient detail to allow analysis of trends regarding the reasons for participation in the public school open enrollment program at the statewide, regional, and local LEA levels. In such annual report, the department shall also include data at the statewide and LEA levels of sufficient detail to allow detection and analysis of the impact of the public school open enrollment program on racial, ethnic, and socioeconomic balance among schools and LEAs at the statewide, regional, and local LEA levels. No such survey results published under this subsection shall be published

in a manner that reveals information regarding a group of five or fewer students.

8. (1) If a student declines enrolling in the nonresident LEA, the department shall send the LEA the next application on the LEA's waiting list for consideration.

(2) Upon receiving such next application, the nonresident LEA shall follow the procedures in subsection 5 of this section.

9. No additional open enrollment transfer applications shall be sent by the department or approved by a nonresident LEA after April fifteenth of the school year immediately preceding the school year of enrollment.

167.1224. 1. Before enrollment in a nonresident LEA, a student with any of the following who is notified by the department that such student is accepted for a transfer to a nonresident LEA shall be provided the same process that exists for a resident student moving into the nonresident LEA:

(1) An individualized education program, or IEP, as such term is defined in 20 U.S.C. Section 1401, as amended;

(2) An individualized family service plan, or IFSP, as such term is defined in 20 U.S.C. Section 1401, as amended;

(3) A 504 plan created under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. Section 794, as amended;

(4) A placement in an English as a second language (ESL) program;

(5) An identification as a gifted child eligible for a program or service under section 162.720; or

(6) A diagnosis of dyslexia, as such term is defined in section 633.420.

2. The nonresident LEA, parent, or both shall have the opportunity to reevaluate such student to determine what



comparable services may be required under section 162.700 or the special education programs or services for which such student may be eligible.

3. The nonresident LEA is responsible for providing a free appropriate public education to the student.

4. The nonresident LEA shall provide the same or substantially similar services as a resident student would receive, as applicable.

5. Before choosing to enroll in the nonresident LEA, if necessary, the student and parent shall be provided the opportunity to develop a new or amended IEP, IFSP, or 504 plan or to evaluate the ESL, gifted, or dyslexia programs and services provided by the nonresident LEA.

6. The nonresident LEA shall provide the student and parent with prior written notice documenting the services and supports that the nonresident LEA determines appropriate to meet the student's needs. The nonresident LEA shall offer the transferring student ten business days to accept or decline the acceptance of the nonresident LEA.

7. Any LEA participating in the public school open enrollment program that is served by a special school district established under sections 162.670 to 162.995 shall execute a form agreement prepared by the department with such special school district regarding finance, staffing, and other relevant items relating to any students requiring special education services prior to participating in open enrollment. An LEA and a special school district may choose to modify such form agreement, but no such modifications shall inhibit or delay the LEA's participating in the public school open enrollment program.

8. In compliance with the requirements of federal and state laws, the nonresident LEA shall make reasonable accommodations and modifications to address the needs of

incoming transferring students and to provide such transferring students with equal access to a free appropriate public education.

9. This section shall not be construed to preclude a nonresident LEA from adding additional staff, services, or programs not already being offered by the nonresident LEA unless the nonresident LEA elects to or from performing subsequent evaluations, when appropriate, to ensure proper placement of a transferring student after enrollment.

167.1225. 1. If sections 167.1200 to 167.1230 conflict with a provision of an enforceable desegregation court order or an LEA's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern.

2. (1) An LEA may annually declare an exemption from sections 167.1200 to 167.1230 if the LEA is subject to a desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation or a settlement agreement remedying the effects of past racial segregation.

(2) An exemption declared by the governing body of an LEA under subdivision (1) of this subsection is irrevocable for one year from the date the LEA notifies the department of the declaration of exemption.

(3) After each year of exemption, the governing body of an LEA may elect to participate in the public school open enrollment program under sections 167.1200 to 167.1230 if the LEA's participation does not conflict with the LEA's federal court-ordered desegregation program or settlement agreement remedying the effects of past racial segregation.

(4) An LEA shall notify the department before November first if in the next school year the LEA intends to:

(a) Declare an exemption under subdivision (1) of this subsection; or

(b) Resume participation after a period of exemption.

(5) If a student is unable to transfer because of the limits under this subsection, the resident LEA shall give the student priority for a transfer in the following school year in the order that the resident LEA receives notices of application under section 167.1220, as evidenced by a notation made by the LEA on the applications indicating the date and time of receipt.

3. (1) Any student who transfers to a nonresident LEA under section 167.131, sections 162.1040 to 162.1061, or any section other than sections 167.1200 to 167.1230 shall not be subject to any requirements under sections 167.1200 to 167.1230.

(2) LEAs receiving transfer students or sending transfer students to nonresident LEAs under section 167.131, sections 162.1040 to 162.1061, or any section other than sections 167.1200 to 167.1230 shall not be subject to any requirements under sections 167.1200 to 167.1230 for those transfer students.

4. (1) A student transferring to a nonresident LEA under sections 167.1200 to 167.1230 shall not be considered a transfer student under any law relating to another transfer program or procedure that allows students to transfer out of their resident LEAs.

(2) This subdivision shall apply only to students who attend a school in an LEA that is not a charter school and does not offer education in a grade higher than grade eight as follows:

(a) If such student enrolls in a nonresident LEA that is not a charter school under sections 167.1200 to 167.1230 before the end of such student's fifth-grade year, the

provisions of 167.1200 to 167.1230 shall apply for such student; and

(b) If such student does not enroll in such nonresident LEA that is not a charter school before the end of such student's fifth-grade year, such student may transfer to such nonresident LEA during a year in which such student is in grade six, seven, or eight under sections 167.1200 to 167.1230. When such student enters grade nine, such student's resident LEA shall:

a. Compute the difference by subtracting the state adequacy target from the nonresident student tuition as calculated under section 167.131;

b. Pay the amount of such difference above zero to such nonresident LEA; and

c. Follow all other procedures as if such student transferred under section 167.131.

(3) If a student transfers under sections 167.1200 to 167.1230 to a nonresident LEA that is not a charter school and does not offer education in a grade higher than grade eight, such nonresident LEA shall not be considered such student's resident LEA for any purpose after such student completes grade eight or upon such student's transfer out of such nonresident LEA before such student completes grade eight.

167.1227. 1. A student whose application for a transfer under section 167.1220 is rejected by the nonresident LEA 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 ten calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application 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 LEA's governing body.

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

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 LEA.

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 LEA may submit in writing any additional information, evidence, or arguments supporting the LEA's rejection of the student's application by mailing such response to the department. Such response shall be postmarked no later than ten days after the nonresident LEA receives the student's or parent's appeal.

8. Contemporaneously with the filing of its response under subsection 7 of this section, the nonresident LEA 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 LEA on appeal, the department shall notify the parent, the nonresident LEA, and the resident LEA of the basis for the department's decision.

167.1229. 1. (1) The department shall collect data from LEAs on the number of applications for student transfers under sections 167.1200 to 167.1230 and study the effects of public school open enrollment program transfers under sections 167.1200 to 167.1230. The department shall

consider, as part of its study, the maximum number of transfers and exemptions for both resident and nonresident LEAs for up to two years to determine if a significant racially segregative impact has occurred to any LEA.

(2) Annually before December first, the department shall report the department's findings from the study of the data under subdivision (1) of this subsection to:

(a) The joint committee on education or any successor committee;

(b) The house committee on elementary and secondary education or any other education committee designated by the speaker of the house of representatives; and

(c) The senate committee on education or any other education committee designated by the president pro tempore of the senate.

2. The department shall annually make a random selection of ten percent of the LEAs participating in the public school open enrollment program under sections 167.1200 to 167.1230. The department shall audit each selected LEA's transfers approved or denied under policies adopted by the governing body under sections 167.1200 to 167.1230. If the department determines that a selected LEA 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 LEA under chapter 160 or chapter 163 until the LEA corrects the transfer process improprieties identified by the department's audit.

167.1230. 1. In any school year for which the moneys in the parent public school choice fund do not equal or exceed the amount necessary to provide for projected eligible reimbursements from the parent public school choice fund the following shall apply:

(1) LEAs may make modifications to the LEA's policy for open enrollment under sections 167.1200 to 167.1230 to make such reasonable adjustments necessary to ensure sufficient classroom space;

(2) All eligible transferring students enrolled in a nonresident LEA under sections 167.1200 to 167.1230 may remain in such nonresident LEA; and

(3) All nonresident LEAs that are eligible for reimbursement for nonresident students who received special education services under section 167.1211 from the parent public school choice fund shall add to the nonresident LEA's calculation of weighted average daily attendance for such student an additional twenty-five hundredths per such nonresident student.

2. No student shall be enrolled under sections 167.1200 to 167.1230 before July 1, 2026.