

SECOND REGULAR SESSION

HOUSE BILL NO. 2604

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POLLITT.

5299H.011

JOSEPH ENGLER, Chief Clerk

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.

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Section A. Sections 167.020 and 167.151, RSMo, are repealed and fourteen new
2 sections enacted in lieu thereof, to be known as sections 167.020, 167.151, 167.1200,
3 167.1205, 167.1210, 167.1211, 167.1212, 167.1215, 167.1220, 167.1224, 167.1225,
4 167.1227, 167.1229, and 167.1230, to read as follows:

167.020. 1. As used in this section and in section 167.022, the following terms mean:

- 2 (1) "Behavioral threat assessment", records associated with an evaluation of a student
3 who has shown or demonstrated:
- 4 (a) Homicidal or suicidal ideation;
 - 5 (b) Planning an attack on a school, other students, faculty, staff, or administration; or
 - 6 (c) Behavior that puts students, faculty, staff, or administration at risk for harm;
- 7 (2) "Homeless child" or "homeless youth", a person less than twenty-one years of age
8 who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:
- 9 (a) Is sharing the housing of other persons due to loss of housing, economic hardship,
10 or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative
11 adequate accommodations; is living in emergency or transitional shelters; is abandoned in
12 hospitals; or is awaiting foster care placement;
 - 13 (b) Has a primary nighttime residence that is a public or private place not designed for
14 or ordinarily used as a regular sleeping accommodation for human beings;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

17 (d) Is a migratory child or youth who qualifies as homeless because the child or youth
18 is living in circumstances described in paragraphs (a) to (c) of this subdivision;

19 (3) "Personal safety plan", an agreement based upon the findings of the behavioral
20 threat assessment record between the school and the students' parents or guardians, or
21 between the school and the student if the student is emancipated or an unaccompanied youth
22 as defined in section 210.121, that:

23 (a) Stipulates rules for attendance at the school;

24 (b) Provides benchmarks that allow for the student to be released from the personal
25 safety plan over time; and

26 (c) Provides immediate access to a trusted adult for the student with the personal
27 safety plan.

28 2. **(1)** In order to register a pupil, the **pupil or the** parent or legal guardian of the
29 pupil [~~or the pupil himself or herself~~] shall provide, at the time of registration, one of the
30 following:

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

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

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

49 **(2)** In instances where there is reason to suspect that admission of the pupil will create
50 an immediate danger to the safety of other pupils and employees of the district, the

51 superintendent or the superintendent's designee may convene a hearing within five working
52 days of the request to register and determine whether or not the pupil may register.

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

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

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

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

84 7. Within two business days of enrolling a pupil, the school official enrolling a pupil,
85 including any special education pupil, shall request those records required by district policy
86 for student transfer, discipline records required by subsection 9 of section 160.261 from all
87 schools previously attended by the pupil within the last twelve months, and records of any

88 behavioral threat assessments and personal safety plans of the pupil created by the local
89 education agency if the student is currently subject to an active personal safety plan or has
90 been subject to a personal safety plan in the previous twelve months. Any school district that
91 receives a request for such records from another school district enrolling a pupil that had
92 previously attended a school in such district shall respond to such request within five business
93 days of receiving the request. School districts may report or disclose education records to law
94 enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or
95 juvenile justice authorities' ability to effectively serve, prior to adjudication, the student
96 whose records are released. The officials and authorities to whom such information is
97 disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g(b)(1)
98 (E), **as amended.**

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

167.151. 1. The school board of any district:

2 (1) In its discretion, may admit to the school pupils not entitled to free instruction;
3 and

4 (2) Shall prescribe the tuition fee to be paid by them, except as provided in:

5 (a) Subdivision (2) of subsection 3 of this section;

6 (b) Subsection 6 of this section; and

7 (c) Sections 167.121, 167.131, 167.132, 167.895, and 168.151; **and sections**
8 **167.1200 to 167.1230.**

9 2. Orphan children, children with only one parent living, and children whose parents
10 do not contribute to their support - if the children are between the ages of six and twenty years
11 and are unable to pay tuition - may attend the schools of any district in the state in which they
12 have a permanent or temporary home without paying a tuition fee.

13 3. (1) For all school years ending on or before June 30, 2023, any individual who
14 pays a school tax in any other district than that in which such individual resides may send
15 such individual's children to any public school in the district in which the tax is paid and
16 receive as a credit on the amount charged for tuition the amount of the school tax paid to the
17 district; except that any individual who owns real estate of which eighty acres or more are
18 used for agricultural purposes and upon which such individual's residence is situated may
19 send such individual's children to public school in any school district in which a part of such

20 real estate, contiguous to that upon which such individual's residence is situated, lies and shall
21 not be charged tuition therefor; so long as thirty-five percent of the real estate is located in the
22 school district of choice. The school district of choice shall count the children in its average
23 daily attendance for the purpose of distribution of state aid through the foundation formula.

24 (2) For all school years beginning on or after July 1, 2023, any current owner of
25 residential real property or agricultural real property or a named beneficiary of a trust that
26 currently owns residential real property or agricultural real property and that pays a school tax
27 in a district or districts other than the district in which such current owner or current
28 beneficiary resides may send up to four of such owner's or beneficiary's children to a public
29 school, excluding a charter school, in any district in which such owner or trust pays such
30 school tax. For purposes of this subdivision, "residential real property" shall not include any
31 multifamily residential property which exceeds four units. An owner or a named beneficiary
32 of a trust that currently owns residential real property shall not be permitted under this
33 subdivision to send their child to a district outside of the county in which they currently
34 reside. Such owner or beneficiary shall send thirty days' written notice to all school districts
35 involved specifying which school district each child will attend. Such owner or beneficiary
36 shall also present proof of the owner's or trust's annual payment of at least two thousand
37 dollars of school taxes levied on the real property specified in this subdivision within such
38 school district and ownership of the specified real property for not less than the immediately
39 preceding four consecutive years. Neither the resident nor nonresident districts shall be
40 responsible for providing transportation services under this subdivision. The school district
41 attended shall count a child attending under this subdivision in its average daily attendance
42 for the purpose of distribution of state aid under chapter 163, except that such nonresident
43 students shall not be counted in the district's average daily attendance for the purposes of
44 determining eligibility for aid payments under section 163.044.

45 4. For any school year ending on or before June 30, 2023, any owner of agricultural
46 land who, pursuant to subsection 3 of this section, has the option of sending such individual's
47 children to the public schools of more than one district shall exercise such option as provided
48 in this subsection. Such person shall send written notice to all school districts involved
49 specifying to which school district such children will attend by June thirtieth in which such a
50 school year begins. If notification is not received, such children shall attend the school in
51 which the majority of such individual's property lies. Such person shall not send any of such
52 individual's children to the public schools of any district other than the one to which such
53 individual has sent notice pursuant to this subsection in that school year or in which the
54 majority of such individual's property lies without paying tuition to such school district.

55 5. If a pupil is attending school in a district other than the district of residence and the
56 pupil's parent is teaching in the school district or is a regular employee of the school district

57 which the pupil is attending, then the district in which the pupil attends school shall allow the
58 pupil to attend school upon payment of tuition in the same manner in which the district allows
59 other pupils not entitled to free instruction to attend school in the district. The provisions of
60 this subsection shall apply only to pupils attending school in a district which has an
61 enrollment in excess of thirteen thousand pupils and not in excess of fifteen thousand pupils
62 and which district is located in a county with a charter form of government which has a
63 population in excess of six hundred thousand persons and not in excess of nine hundred
64 thousand persons.

65 6. (1) As used in this subsection, the following terms mean:

66 (a) "Contractor", an individual who devotes at least twenty paid hours per week
67 fulfilling employment requirements or providing services to or for the benefit of a school
68 district or charter school, or public school employer in such district or charter school in any
69 job title or position that is covered for an employee with such job title or in such position by a
70 retirement system created under chapter 169 under a contract between such individual or such
71 individual's employer and such school district, charter school, or public school;

72 (b) "Regular employee", an individual who devotes at least twenty paid hours per
73 week fulfilling employment requirements or providing services to or for the benefit of a
74 school district, public school in such district, or charter school in any position that is covered
75 by a retirement system created under chapter 169.

76 (2) (a) For the 2025-26 school year and all subsequent school years, a school district
77 or charter school may, if approved by a majority vote of the members of the school board of
78 the school district or governing board of the charter school, adopt a policy to admit a child
79 whose parent is a contractor or regular employee of a school district other than the child's
80 school district of residence, a public school in such district, or a charter school, and, if such a
81 policy is adopted, such child may attend school in such nonresident school district or charter
82 school.

83 (b) Such nonresident school district or charter school shall allow the child to attend
84 school in the same manner in which the district or charter school allows other pupils who are
85 entitled to free instruction to attend school in the district and without paying a tuition fee.

86 (c) Such child shall be considered a resident pupil of such nonresident district or
87 charter school under the definition of average daily attendance in section 163.011, except that
88 for a student attending a nonresident charter school, the charter school shall receive a state aid
89 payment in an amount determined by multiplying the charter school's weighted average daily
90 attendance of such transferring student enrolled in the charter school by the state adequacy
91 target and multiplying this product by the dollar-value modifier for the district in which the
92 charter school is located, and the provisions of section 160.415 shall not apply to any
93 nonresident student attending a charter school. For purposes of this paragraph, the terms

94 "dollar-value modifier", "state adequacy target", and "weighted average daily attendance"
95 shall have the same meaning as such terms are defined in section 163.011.

96 (d) If such child wishes to attend a school within the nonresident district or charter
97 school that is a magnet school, an academically selective school, or a school with a
98 competitive entrance process that has admissions requirements, the child's parent shall furnish
99 proof that the child meets the admissions requirements for such school in order to attend.

100 (3) The school district, charter school, or public school may require:

101 (a) A contractor to provide documentation showing that such contractor meets the
102 requirements of this subsection; and

103 (b) A contractor or regular employee to have worked a minimum number of days, not
104 to exceed sixty, for such contractor's or regular employee's child to be eligible to attend school
105 in such nonresident school district or charter school under this subsection.

106 (4) Neither the resident district or charter school nor the nonresident district or charter
107 school shall be responsible for providing transportation services under this subsection.

108 (5) If the parent of a nonresident child attending school under this subsection ceases
109 to be a contractor or regular employee of a school district or charter school, the child may
110 complete the school year as provided under the provisions of this subsection.

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

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

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

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

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

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

**11 (5) "Resident local education agency" or "resident LEA", the local education
12 agency in which the transferring student resides, or in the case of a transferring student
13 who is subject to joint legal custody or joint physical custody awarded by a court, the
14 residence designated as the address of the student for educational purposes, or in the
15 case of a student who attends a charter school, such charter school;**

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

**18 (7) "Socioeconomic status", the income level of a student or the student's family,
19 which shall be measured by whether a student or the student's family meets the**

20 financial eligibility criteria for free and reduced price meals offered under federal
21 guidelines;

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

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

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

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

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

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

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

167.1205. 1. A public school open enrollment program is established to enable a
2 child beginning kindergarten or a student in kindergarten to grade twelve to attend a
3 school in a nonresident LEA, subject to the limitations under section 167.1225. Such
4 program is designed to improve the quality of instructional and educational programs
5 by providing opportunities including, but not limited to, the following:

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

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

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

12 2. (1) LEAs shall not be required to participate in the public school open
13 enrollment program.

14 (2) (a) Each LEA shall, before November first of each year, indicate whether the
15 LEA will participate in the public school open enrollment program created in sections
16 167.1200 to 167.1230 in the school year beginning on July first of the following year.

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

20 (3) (a) An LEA may restrict the number of students who may transfer to a
21 nonresident LEA under sections 167.1200 to 167.1230 in each school year to a maximum
22 of five percent of the previous school year's enrollment for the LEA.

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

- 28 **a. Was enrolled in a school other than an LEA;**
29 **b. Was attending an FPE school, as such term is defined in section 167.013; or**
30 **c. Has moved to this state from another state and has not yet enrolled in a school.**

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

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

41 **3. Sections 167.1200 to 167.1230 shall not be construed to require an LEA to add**
42 **teachers, staff, or classrooms or to in any way exceed the requirements and standards**
43 **established by existing law or the nonresident LEA.**

44 **4. (1) The department or another entity skilled in policy development shall**
45 **develop a model policy for determining the number of transfers available under section**
46 **167.1215 and establishing specific standards for acceptance and rejection of transfer**
47 **applications under section 167.1227. Regardless of whether an LEA participates in the**
48 **public school open enrollment program, the governing body of each LEA shall, by**
49 **resolution, adopt the model policy with any changes necessary for a particular LEA's**
50 **needs.**

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

53 **(3) The specific standards for acceptance and rejection of transfer applications**
54 **may include, but shall not be limited to:**

- 55 **(a) The capacity of a school building, grade level, class, or program;**
56 **(b) The availability of classroom space in each school building;**
57 **(c) Any class-size limitation;**
58 **(d) The ratio of students to classroom teachers;**
59 **(e) The LEA's projected enrollment; and**

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

64 (4) The specific standards for acceptance and rejection of transfer applications
65 shall include a statement that priority shall be given to an applicant who has a sibling
66 who:

67 (a) Is already enrolled in the nonresident LEA; or

68 (b) Has made an application for enrollment in the same nonresident LEA.

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

71 (a) Academic achievement;

72 (b) Athletic or other extracurricular ability;

73 (c) Disabilities;

74 (d) English proficiency level; or

75 (e) Previous disciplinary proceedings, except that any suspension or expulsion
76 from another LEA shall be included.

77 (6) An LEA receiving transferring students shall not discriminate on the basis of
78 gender, national origin, race, ethnicity, ancestry, religion, disability, or whether the
79 student is homeless or a migrant.

80 5. A nonresident LEA shall:

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

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

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

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

89 (2) Application deadline; and

90 (3) Requirements and procedures for resident and nonresident students to
91 participate in the program.

92 7. If a student wishes to attend a school within a nonresident LEA that is a
93 magnet school, an academically selective school, or a school with a competitive entrance
94 process that has admissions requirements, the student shall furnish proof that the
95 student meets the admissions requirements in the application described under section
96 167.1220.

97 **8. A nonresident LEA may deny a transfer to a student who, in the most recent**
98 **school year, has been suspended from school two or more times or who has been**
99 **suspended for an act of school violence or expelled under subsection 2 of section 160.261.**
100 **A student whose transfer is initially precluded under this subsection may be permitted**
101 **to transfer on a provisional basis as a probationary transfer student, subject to no**
102 **further disruptive behavior, upon approval of the nonresident LEA's governing body.**

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

107 **10. (1) As used in this subsection, "school days of enrollment" does not include**
108 **enrollment in summer school, and "varsity" means the highest level of competition**
109 **offered by one school or LEA against the highest level of competition offered by an**
110 **opposing school or LEA.**

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

116 **a. If the transfer does not involve undue influence and is not for athletic reasons,**
117 **a student may be eligible immediately at the school of the student's choice upon first**
118 **entering when:**

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

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

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

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

129 **(i) A student whose name has been included on a school eligibility roster at any**
130 **level for a given sport during the twelve calendar months preceding the date of such**
131 **transfer shall be eligible only for subvarsity competition in such sport for three hundred**
132 **sixty-five days after the date of transfer. A student may have unrestricted eligibility in**

133 all other sports in which such student's name has not appeared on a school eligibility
134 roster;

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

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

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

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

4 (2) (1) A student who accepts a public school open enrollment program transfer
5 to a nonresident LEA shall commit to attend and take all courses through the
6 nonresident LEA for at least one school year. The student may meet with the governing
7 body of the nonresident LEA to be released from such commitment if extenuating
8 circumstances arise or if the student's resident LEA changes. At least one course per
9 semester shall be delivered by the nonresident LEA in-seat.

10 (2) If a transferring student returns to the student's resident LEA, the student's
11 transfer shall be void, and the student shall reapply if the student seeks a future public
12 school open enrollment program transfer. No transferring student who returns to the
13 student's resident LEA shall reapply for a future transfer under this subdivision until
14 after the student has been enrolled in and completed a full school semester in a school in
15 the student's resident LEA.

16 (3) A transferring student with a school attendance percentage rate below eighty
17 percent for any one quarter shall be notified of such rate, and if such student's
18 attendance rate in the subsequent quarter does not reach at least ninety percent, the

19 student's transfer and eligibility to attend the nonresident LEA may be voided by the
20 LEA.

21 **3. (1) Except as otherwise provided in this subsection, a transferring student**
22 **attending school in a nonresident LEA may complete all remaining school years in the**
23 **nonresident LEA without reapplying each school year.**

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

29 **4. (1) The transferring student or the student's parent is responsible for the**
30 **transportation of the student to and from the school in the nonresident LEA where the**
31 **student is enrolled.**

32 **(2) A nonresident LEA may enter into an agreement with the student's parent**
33 **that the parent may transport the student to an existing bus stop location convenient to**
34 **the LEA if the LEA has capacity available on a bus serving that location.**

35 **5. Notwithstanding the provisions of chapter 160, chapter 163, or federal**
36 **calculations of military impact aid to the contrary, for the purposes of determining state**
37 **and federal aid, a transferring student shall be counted as a resident pupil of the**
38 **nonresident LEA in which the student is enrolled, except that the provisions of**
39 **subsections 15 to 18 of section 160.415 shall not apply to any nonresident student**
40 **transferring to a charter school.**

41 **6. Nothing in sections 167.1200 to 167.1230 shall be construed to relieve any**
42 **resident LEA of its responsibility to pay any costs required under section 162.705 or**
43 **162.740.**

167.1211. If a nonresident student receives special education services and
2 **participates in the public school open enrollment program, the nonresident LEA shall**
3 **receive reimbursement from the parent public school choice fund established in section**
4 **167.1212 for the costs of the special education services for the student with an**
5 **individualized education program above the state and federal funds received for**
6 **educating the student. Such reimbursement shall not exceed three times the current**
7 **expenditure per average daily attendance as calculated on the LEA annual secretary of**
8 **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
2 **School Choice Fund", which shall consist of appropriations made by the general**
3 **assembly to provide moneys for the public school open enrollment program. The state**
4 **treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,**

5 the state treasurer may approve disbursements. The fund shall be a dedicated fund and,
6 upon appropriation, moneys in the fund shall be used solely as provided in sections
7 167.1200 to 167.1230.

8 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
9 remaining in the fund at the end of the biennium shall not revert to the credit of the
10 general revenue fund.

11 3. The state treasurer shall invest moneys in the fund in the same manner as
12 other funds are invested. Any interest and moneys earned on such investments shall be
13 credited to the fund.

14 4. Moneys appropriated to and deposited in the fund shall be used to
15 supplement, not supplant, state aid distributed to LEAs under chapter 160 or chapter
16 163 and shall be used solely to compensate LEAs that participate in the public school
17 open enrollment program established in sections 167.1200 to 167.1230.

18 5. The department shall annually evaluate the availability and use of moneys
19 from the fund. If the department determines that additional moneys are needed to
20 fulfill the purposes of this section, the department shall, as part of the legislative budget
21 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
2 transfer students the LEA is willing to receive for the following school year under
3 sections 167.1200 to 167.1230. The LEA may create criteria for the acceptance of
4 students including, but not limited to, the number of students by building, grade,
5 classroom, or program.

6 2. (1) Each LEA shall publish the number set under this section, notify the
7 department of such number, and shall not be required to accept any transfer students
8 under this section who would cause the LEA to exceed the published number.

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

11 3. (1) The online resource created and maintained by the department as
12 described in section 167.1205 shall include a waiting list for applications to nonresident
13 LEAs if a transfer cannot be accepted because the number of transfers applied for
14 exceeds the number of transfers available. The online resource shall notify each
15 applicant that the applicant's transfer application may be subject to placement on such
16 waiting list if such transfer application is included in a number of transfer applications
17 that exceeds the number of transfers available.

18 (2) Applications on the waiting list may be given priority for acceptance in the
19 following order and may include other options for priority acceptance:

20 (a) Siblings of students already enrolled in the LEA;

21 (b) Children of an active duty member of the Armed Forces of the United States;

22 (c) Children of LEA employees;

23 (d) Students who had previously attended school in the LEA but whose parents
24 have moved out of the LEA; and

25 (e) Students whose parents present an employment circumstance for which an
26 open enrollment transfer would be in the student's best interest.

27 (3) A parent of a student on the waiting list shall be informed by the department
28 of the details of the operation of the list and whether the parent will be required to refile
29 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
2 sections 167.1200 to 167.1230, the student's parent shall submit an application:

3 (1) To the department, using the online resource described in section 167.1205,
4 beginning on November fifteenth in the school year before the school year in which the
5 student seeks to begin the fall semester at the nonresident LEA;

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

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

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

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

13 (1) Conduct a lottery of eligible applications to determine which student
14 transfers will be approved, subject to the conditions for approval under sections
15 167.1200 to 167.1230; and

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

18 4. (1) The governing body of the nonresident LEA shall request from all schools
19 previously attended by the student within the last twelve months, including the student's
20 resident LEA, if applicable:

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

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

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

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

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

31 **5. (1) The governing body of the nonresident LEA shall within ten business**
32 **days:**

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

34 **(b) Determine whether such LEA shall accept or reject such application based**
35 **on the standards in the LEA's policy for open enrollment under sections 167.1200 to**
36 **167.1230 adopted by the governing body and a review of records provided under**
37 **subsection 4 of this section; and**

38 **(c) Inform the department of such determination.**

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

41 **6. (1) (a) Before March first of the school year before the school year in which**
42 **the student seeks to enroll in a nonresident LEA under sections 167.1200 to 167.1230,**
43 **the nonresident LEA's governing body shall notify the department as to whether the**
44 **student's application has been accepted or rejected through the online resource created**
45 **under section 167.1205.**

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

50 **(2) If the application is rejected, the department's notification shall state the**
51 **receiving nonresident LEA's reason for the rejection and provide instructions on the**
52 **right of the student to appeal under section 167.1227.**

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

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

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

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

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

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

63 **7. The department shall publish an annual report based on the anonymous**
64 **survey conducted under subdivision (4) of subsection 6 of this section, at the statewide**

65 and LEA levels, that provides data at the statewide and LEA levels of sufficient detail to
66 allow analysis of trends regarding the reasons for participation in the public school open
67 enrollment program at the statewide, regional, and local LEA levels. In such annual
68 report, the department shall also include data at the statewide and LEA levels of
69 sufficient detail to allow detection and analysis of the impact of the public school open
70 enrollment program on racial, ethnic, and socioeconomic balance among schools and
71 LEAs at the statewide, regional, and local LEA levels. No such survey results published
72 under this subsection shall be published in a manner that reveals information regarding
73 a group of five or fewer students.

74 8. (1) If a student declines to enroll in the nonresident LEA, the department
75 shall send the LEA the next application on the LEA's waiting list for consideration.

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

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

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

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

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

9 (3) A 504 plan created under Section 504 of the federal Rehabilitation Act of
10 1973, 29 U.S.C. Section 794, as amended;

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

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

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

15 2. The nonresident LEA, parent, or both shall have the opportunity to reevaluate
16 such student to determine what comparable services may be required under section
17 162.700 or the special education programs or services for which such student may be
18 eligible.

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

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

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

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

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

40 **8. In compliance with the requirements of federal and state laws, the nonresident**
41 **LEA shall make reasonable accommodations and modifications to address the needs of**
42 **incoming transferring students and to provide such transferring students with equal**
43 **access to a free, appropriate public education.**

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

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

5 **2. (1) An LEA may annually declare an exemption from sections 167.1200 to**
6 **167.1230 if the LEA is subject to a desegregation order or mandate of a federal court or**
7 **agency remedying the effects of past racial segregation or a settlement agreement**
8 **remedying the effects of past racial segregation.**

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

12 **(3) After each year of exemption, the governing body of an LEA may elect to**
13 **participate in the public school open enrollment program under sections 167.1200 to**
14 **167.1230 if the LEA's participation does not conflict with the LEA's federal court-**
15 **ordered desegregation program or settlement agreement remedying the effects of past**
16 **racial segregation.**

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

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

20 **(b) Resume participation after a period of exemption.**

21 **(5) If a student is unable to transfer because of the limits under this subsection,**
22 **the resident LEA shall give the student priority for a transfer in the following school**
23 **year in the order that the resident LEA receives notices of application under section**
24 **167.1220, as evidenced by a notation made by the LEA on the applications indicating the**
25 **date and time of receipt.**

26 **3. (1) Any student who transfers to a nonresident LEA under section 167.131,**
27 **sections 162.1040 to 162.1061, or any section other than sections 167.1200 to 167.1230**
28 **shall not be subject to any requirements under sections 167.1200 to 167.1230.**

29 **(2) LEAs receiving transfer students or sending transfer students to nonresident**
30 **LEAs under section 167.131, sections 162.1040 to 162.1061, or any section other than**
31 **sections 167.1200 to 167.1230 shall not be subject to any requirements under sections**
32 **167.1200 to 167.1230 for those transfer students.**

33 **4. (1) A student transferring to a nonresident LEA under sections 167.1200 to**
34 **167.1230 shall not be considered a transfer student under any law relating to another**
35 **transfer program or procedure that allows students to transfer out of their resident**
36 **LEAs.**

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

40 **(a) If such student enrolls in a nonresident LEA that is not a charter school**
41 **under sections 167.1200 to 167.1230 before the end of such student's fifth-grade year, the**
42 **provisions of 167.1200 to 167.1230 shall apply for such student; and**

43 **(b) If such student does not enroll in such nonresident LEA that is not a charter**
44 **school before the end of such student's fifth-grade year, such student may transfer to**
45 **such nonresident LEA during a year in which such student is in grade six, seven, or**

46 eight under sections 167.1200 to 167.1230. When such student enters grade nine, such
47 student's resident LEA shall:

- 48 a. Compute the difference by subtracting the state adequacy target from the
49 nonresident student tuition as calculated under section 167.131;
- 50 b. Pay the amount of such difference above zero to such nonresident LEA; and
- 51 c. Follow all other procedures as if such student transferred under section
52 167.131.

53 (3) If a student transfers under sections 167.1200 to 167.1230 to a nonresident
54 LEA that is not a charter school and does not offer education in a grade higher than
55 grade eight, such nonresident LEA shall not be considered such student's resident LEA
56 for any purpose after such student completes grade eight or upon such student's
57 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
2 rejected by the nonresident LEA may appeal to the department to reconsider the
3 transfer.

4 2. An appeal to the department shall be in writing and shall be postmarked no
5 later than ten calendar days, excluding weekends and legal holidays, after the student or
6 the student's parent receives a notice of rejection of the application under section
7 167.1220.

8 3. Contemporaneously with the filing of the written appeal under subsection 2 of
9 this section, the student or the student's parent shall also mail a copy of the written
10 appeal to the LEA's governing body.

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

13 5. The student or the student's parent shall submit, along with the written
14 appeal, a copy of the notice of rejection from the nonresident LEA.

15 6. As part of the review process, the student or student's parent may submit
16 supporting documentation that the transfer would be in the best educational, health,
17 social, or psychological interest of the student.

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

22 8. Contemporaneously with the filing of its response under subsection 7 of this
23 section, the nonresident LEA shall also mail a copy of the response to the student or
24 student's parent.

25 **9. If the department overturns the determination of the nonresident LEA on**
26 **appeal, the department shall notify the parent, the nonresident LEA, and the resident**
27 **LEA of the basis for the department's decision.**

167.1229. 1. (1) The department shall collect data from LEAs on the number of
2 **applications for student transfers under sections 167.1200 to 167.1230 and study the**
3 **effects of public school open enrollment program transfers under sections 167.1200 to**
4 **167.1230. The department shall consider, as part of its study, the maximum number of**
5 **transfers and exemptions for both resident and nonresident LEAs for up to two years to**
6 **determine if a significant racially segregative impact has occurred to any LEA.**

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

- 10 **(a) The joint committee on education or any successor committee;**
11 **(b) The house committee on elementary and secondary education or any other**
12 **education committee designated by the speaker of the house of representatives; and**
13 **(c) The senate committee on education or any other education committee**
14 **designated by the president pro tempore of the senate.**

15 **2. The department shall annually make a random selection of ten percent of the**
16 **LEAs participating in the public school open enrollment program under sections**
17 **167.1200 to 167.1230. The department shall audit each selected LEA's transfers**
18 **approved or denied under policies adopted by the governing body under sections**
19 **167.1200 to 167.1230. If the department determines that a selected LEA is improperly**
20 **implementing and administering the transfer process established under sections**
21 **167.1200 to 167.1230, the department may withhold any state aid provided to the**
22 **LEA under chapter 160 or chapter 163 until the LEA corrects the transfer process**
23 **improprieties identified by the department's audit.**

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

- 5 **(1) LEAs may make modifications to the LEA's policy for open enrollment**
6 **under sections 167.1200 to 167.1230 to make such reasonable adjustments necessary to**
7 **ensure sufficient classroom space;**
8 **(2) All eligible transferring students enrolled in a nonresident LEA under**
9 **sections 167.1200 to 167.1230 may remain in such nonresident LEA; and**
10 **(3) All nonresident LEAs that are eligible for reimbursement for nonresident**
11 **students who received special education services under section 167.1211 from the parent**

12 **public school choice fund shall add to the nonresident LEA's calculation of weighted**
13 **average daily attendance for such student an additional twenty-five hundredths per**
14 **such nonresident student.**

15 **2. No student shall be enrolled under sections 167.1200 to 167.1230 before July 1,**
16 **2027.**

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