

WEST VIRGINIA CODE: §18-5-16

§18-5-16. Student transfers; definitions; appeals; calculating net enrollment; fees for transfer.

(a) Establishment of attendance zones within counties. - The county board may establish attendance zones within the county to designate the schools that its resident students shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board is final.

(b) Definitions. - For the purposes of this section, unless a different meaning clearly appears from the context:

"Nonresident student" means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

"Open enrollment" means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) Enrollment policies. - County boards shall establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

(E) Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

(2) A county must comply with all enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)).

(3) The county board for the county educating the nonresident student may provide an adequate means of transportation to nonresident students when students have complied with the procedure for obtaining authorization to attend school outside their county of residence, subject to the following:

(A) County boards of education are not required to uniformly provide nonresident student transportation, and may consider whether a nonresident student meets the eligibility criteria for free or reduced price lunch and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. § 1758); and

(B) The county board for the county educating the nonresident student shall provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student is a student with disabilities and has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

(d) Appeal. - The state board of education shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to accept the transfer of the student. If during the appeal process, the State Superintendent discovers that the education and the welfare of the student could be enhanced, the State Superintendent may direct that the student may be permitted to attend a school in the receiving county.

(e) Net enrollment. - For purposes of net enrollment as defined in §18-9A-2 of this code, whenever a student is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the student is transferred shall include the student in its net enrollment: Provided, That if, after transferring to another county, a student chooses to return to a school in his or her county of residence after the second month of any school year, the following applies:

(1) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in §18-9A-1 et seq. of this code; and

(2) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

(f) Transfers between states. — Transfer of students from this state to another state shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the receiving county and the authorities of the school or district from which the transfer is made.

(g) No parent, guardian, or person acting as parent or guardian is required to pay for the transfer of a student or for the tuition of the student after the transfer when the transfer is carried out under the terms of this section.

(h) Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission.

(i) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.