



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA  
**School Board Policy Executive Summary**  
 Form D

<b>Policy Number:</b>	Po5121
<b>Title of Policy:</b>	Controlled Open Enrollment
<b>Cabinet Member:</b>	Jane Cline
<b>Purpose of Revisions:</b>	<p>The purpose of the proposed revisions to the policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.</p> <ul style="list-style-type: none"> <li>This policy is being updated based on new state statute and language concerning updates to Florida Statute 1002.31 Controlled open enrollment; public school parental choice. New addition is to “require school districts to maintain a wait list of students who are denied access due to capacity and notify parents when space becomes available” and to post an updated list of schools with grade level capacity every 12 weeks”.</li> </ul>
<b>Tentative Schedule:</b>	<ul style="list-style-type: none"> <li>Cabinet – 1/17/23 (Have to Legal by the week prior to Cabinet)</li> <li>Work Session – 2/7/23</li> <li>Rule Development (Public Hearing) – 2/21/23</li> <li>School Board Meeting Information – 2/21/23</li> <li>School Board Meeting Approval – 3/7/23</li> <li>Effective Date – upon approval</li> </ul>
<b>Summary of Proposed Policy Revisions:</b>	<ul style="list-style-type: none"> <li>This policy is being revised for technical changes only.</li> <li>These proposed revisions do encompass the suggested language from NEOLA.</li> </ul>
<b>Specific Authority:</b>	<i>§1002.20, 1002.31, 1003.03, 1003.05, 1013.35; F.S.; Section 1, Art. IX, Florida Constitution</i>
<b>Next Steps:</b>	<ul style="list-style-type: none"> <li>Revisions to internal procedures</li> <li>Training for BPS employees regarding revisions to policy and revised procedures</li> </ul>

**Current  
Version**

## **5121 – Controlled Open Enrollment**

The School Board shall permit a program of controlled open enrollment as set forth herein and in accordance with Florida law. “Controlled Open Enrollment” means a public education delivery system that allows school districts to make student school assignments using parents’/legal guardians’ indicated preferential educational school choice as a significant factor. The District’s controlled open enrollment program is in addition to the educational choice options provided by Policy 2271-Articulation and Access to Florida College System Institutions; Policy 2370-Educational Options; Policy 2370.1-Virtual Instruction; Policy 2421-Career and Technical Education; and Policy 9800-Charter Schools.

### **I. Components of the District’s Controlled Open Enrollment Program**

The District’s Controlled Open Enrollment Program:

- A. Adheres to Federal desegregation requirements;
- B. Allows parents/legal guardians to declare school preferences, including placement of siblings within the same school;
- C. Provides a lottery procedure to determine student assignment and establishes an appeals process for hardship cases;
- D. Affords parents of students in multiple session schools preferred access to controlled open enrollment;
- E. Maintains socioeconomic, demographic, and racial balance;
- F. Addresses the availability of transportation;
- G. Maintains existing academic eligibility criteria for public school choice programs pursuant to Florida law;
- H. Identifies schools that have reached capacity, as determined by the District; and
- I. Ensures that preferential treatment is provided to individuals as set forth in Florida law.

### **II. Eligibility for Participation in the Controlled Open Enrollment Program**

- A. In addition to the public school choice programs available under Florida law a parent/legal guardian of a student under the age of eighteen (18), or an eligible student who lives in the District or in any other school district in the State of Florida who is not subject to current expulsion or suspension, may seek to enroll in a public school in the District that has not reached capacity, subject to the maximum class size pursuant to F.S. 1003.03, and Section 1, Article IX of the Florida Constitution.
- B. A District school shall be at “capacity”:
  1. Once the school has reached ninety five percent (95%) total capacity as set forth in the Florida Inventory of School Houses (FISH) and/or
  2. Once the number of enrolled students in the District school equals or exceeds the number of seats available for each of the grade levels and/or programs offered in the school.

- C. The Superintendent or the Superintendent's designee may "freeze" a school to new incoming Educational Location Option (ELO) requests regardless of the projected student enrollment to total capacity ratio, if the Superintendent or Superintendent's designee, with the input of representatives from Facilities and/or Leading and Learning, determines that this restriction is in the best interest of the District.
- D. "Capacity" as defined herein is subject to program-specific enrollment limitations. Programs with enrollment limitations may include, but are not limited to, self-contained Exceptional Student Education (ESE), career-tech, magnet, International Baccalaureate (IB), Cambridge, and other academic programs that require student-teacher ratios less than the FISH capacity for that space.
- E. The public schools in the District that have reached capacity shall be identified on the District's website.

### **III. Applications and Preferential Treatment**

- A. Applications to participate in the District's controlled open enrollment program shall be accepted within the published timelines located on the District's website.
- B. Timelines are determined annually and posted on the District's website.
- C. Computer access is available upon request at each District school for parents to complete the application.
- D. Applicants will be required to identify their primary school of choice or specific program within the application.
- E. An applicant's failure to disclose information (e.g., being subject to suspension or expulsion, having a current IEP that is served in a categorical unit, being assigned to a Department of Juvenile Justice program) that would be relevant to the District's determination that the applicant could be served in a program at his/her preferred or alternate schools and therefore would be accepted shall constitute grounds for revocation of approval to enroll under this policy.
- F. After the close of the application period and the determination of capacity at each school, the District shall conduct a lottery as described below and then process the applications according to the random numbers assigned.
- G. Applications are grouped accordingly:

- 1. Tier I – Special Consideration

Applicants included in this tier who reside in the District but are unable to apply during the application window are entitled to preferential treatment in at least one (1) of the following ways:

- a. Dependent children of active military personnel whose move resulted from military orders and resides within the District. Official military orders must be submitted to the Patrick Space Force Base military liaison who will complete the requisite forms to verify preferential treatment;
- b. Children who have been relocated due to foster care placement in a different school zone; and/or

- c. Children who move due to court-ordered change in custody or, due to separation or divorce or serious illness or death of a custodial parent/legal guardian.

2. Tier II – Site-Based Employee Preference

District employees working at a school are considered site-based employees of that school and qualify for the site-based employee preference. Capacity restrictions do not apply to site-based employees. Furthermore, children of site-based employees working at a School of Choice (Educational Program Option) must meet the entry requirements, if applicable.

3. Tier III – Sibling Preference

Family member(s) of a current student who is residing at the same residence as his/her sibling, who will also begin his/her attendance at the same school during a year in which the current student is attending the school, qualify for sibling preference. Siblings who do not begin their attendance at the school while the current student is attending the school do not qualify for sibling preference.

4. Tier IV – Family Preference

A student whose sibling has been offered a seat through the lottery process qualifies for the family preference for the next available seat in the applicable grade level or program pursuant to entry requirements, if applicable.

5. Tier V – District Students

Children who reside in the District are entitled to no other preferential treatment.

6. Tier VI – Out-of-District Students

Students who reside in another county within the state, known as out-of-district students, are not entitled to preferential treatment under state law (F.S. 1002.31), and therefore may not displace a student from within the district.

**IV. Lottery**

- A. The lottery will be conducted by two (2) or more staff members designated by the Superintendent.
- B. The lottery involves the assignment of a random number to each applicant. Siblings in the same grade level/twins/triplets will be assigned the same number unless otherwise requested.
- C. Separate lotteries will be conducted for applicants in the following order:
  1. Tier I
  2. Tier II
  3. Tier III
  4. Tier IV
  5. Tier V
  6. Tier VI
- D. Applicants will be offered seats as capacity in the school, grade level, or program allows.
- E. Applicants will be notified of the seat offering or waitlist status through the District's application program.

- F. Applicants have fourteen (14) calendar days to accept the seat offered.
- G. Students may only commit to one (1) school or program.
- H. Accepting a seat at more than one (1) school or program will result in forfeiture of all seats accepted.
- I. Applicants who were not offered a seat will be waitlisted in rank order. Waitlisted applicants may be offered a seat as seats become available throughout the school year.
- J. Upon accepting a seat in a school or program, students may then register at that school.

**V. Appeals**

- A. Applicants who are not accepted for enrollment may appeal to the Superintendent's Designee within fourteen (14) calendar days from the receipt of the District's notice advising them that their application was denied. If the last day for appeal falls on a day that the District or School Office is not open for business, the deadline shall be extended to the next day that the school office is open for business.
- B. The appeal must be submitted in writing, must be based on a hardship, and must include as much detail as possible regarding the hardship.
- C. Appeals will be considered by an Appeals Team consisting of representatives from various District departments. The Appeals Team decisions are final.
- D. Applicants will be notified in writing via email of the Appeals Team decision.
- E. "Hardship" includes but is not limited to the following:
  - 1. Medical or psychological matters
  - 2. Law enforcement matters
  - 3. Employment needs
  - 4. Any other circumstances demonstrating a hardship

**VI. Students Residing in the District**

- A. Students residing in the District will not be displaced by a student from another district seeking enrollment under the District's controlled open enrollment program.

**VII. Completion of Highest Grade Level**

- A. A student who enrolls through the District's controlled open enrollment program may remain at his/her current school until the completion of the highest grade at that school.
- B. After completing the highest grade at that school, a student who resides in another school zone and wants to transition to the next level of the academic program in this District, must reapply for enrollment through the controlled open enrollment process.

**VIII. Maintaining Appropriate Socioeconomic, Demographic, and Racial Balance**

- A. Given our diverse society and the importance of preparing students for education, work, citizenship, the Board is committed to providing students with equal educational opportunities, promoting educational diversity in the District, and providing students with the educational benefits of a diverse student body. To that end, should a concern arise regarding socioeconomic, demographic, or racial balance in one or more of the District's schools, the Superintendent shall consult with legal counsel to determine the appropriate steps that should be taken, including, but not limited to, any necessary policy revisions and other actions necessary to comply with Florida and Federal law. The Superintendent shall then make the appropriate recommendations to the Board.

#### **IX. Open Enrollment Revocation**

Approval of an Educational Location Option (ELO) or Educational Program Opportunity (EPO) may be revoked for certain reasons: Students and parents are required to complete an acknowledgement of the expectations for participation and enrollment in these schools or programs. Approval may be revoked for the following reasons:

- A. Poor attendance;
- B. Chronic misbehavior;
- C. Lack of academic effort by the student;
- D. Excessive tardiness, early check outs, or late pick-up after school of the student; and/or
- E. Falsification of application details;
- F. Falsification or misrepresentation of address or entrance documents.

#### **X. Transportation**

- A. Transportation is the responsibility of the parent/legal guardian.

#### **XI. Interscholastic and Intra-scholastic Extra-curricular Activities**

- A. A student who is approved to attend his/her requested school through the District's controlled open enrollment process, and enrolls in the school, is immediately eligible to participate in interscholastic and intra-scholastic extra-curricular activities. However, a student may not participate in a sport if the student participates in that same sport at another school during that school year, unless the student meets one (1) of the following criteria:
  - 1. Dependent children of active-duty military personnel whose move resulted from military orders;
  - 2. Children who have been relocated due to a foster care placement in a different school zone;
  - 3. Children who move due to a court-ordered change in custody due to separation or divorce, or serious illness or death of a custodial parent/legal guardian; and/or
  - 4. Authorized for good cause as defined by the Florida High School Athletic Association (FHSA).

- B. A student who believes “good cause” exists to deviate from this portion of the policy must submit a written request to the Superintendent’s designee identifying the facts and circumstances that the student believes establishes “good cause.”

**XII. Non-traditional Students and Extra-curricular Activities**

- A. In accordance with FHSAA, parents/legal guardians of a non-traditional student who wishes to participate in a sport at a school for which the student is not zoned must follow the procedures in this policy and apply through the ELO process within the determined deadlines.

**XIII. Assistance to Transitioning Students from Military Families**

- A. Students of military families may be faced with numerous transitions during their school years. The District, in compliance with Florida law, will promote practices that will assist the military families transitioning to Brevard County. Through collaboration, a memorandum of agreement between the District and the local military installation has been developed and implemented to provide special consideration to students for admission under the District’s controlled open enrollment processes and who meet applicable eligibility requirements.

**XIV. Implementation Flexibility**

- A. The Board grants to the Superintendent flexibility in the placement of students under this policy due to extenuating circumstances. The Superintendent or designee shall notify the Board in writing of any exceptions to this policy.

**XV. Educational Program Opportunity (EPO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance for the purposes of attending an Educational Program Opportunity (EPO) at another school.
- B. Applications for an EPO can be found on the District’s website and shall be submitted electronically.
- C. An EPO applicant must be a Florida resident at time of application with documentation of residency.
- D. Should a specific program be offered at a student’s zoned school of attendance, he/she would **not** be eligible to apply to another school for the same program.
- E. The approval of a student to attend a school other than his/her zoned school of attendance for the purposes of attending an EPO is valid for as long as the student participates in said program at the identified school.
- F. An EPO student must return to his/her zoned school of attendance at the end of the semester if he/she no longer participates in the program.

**XVI. Educational Location Option (ELO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance by completing an application requesting an Educational Location Option (ELO).
- B. Applications for an ELO can be found on the District’s website and shall be submitted electronically.



- C. An ELO applicant must be a Florida resident at time of application with documentation of residency.

**XVII. Non-Resident Students**

- A. Students who are not residents of Brevard County may attend a school in the District upon compliance with Florida laws governing admission of students to the schools of the State.
- B. A non-resident student may not displace students who reside in the District.

**XVIII. New Resident to Brevard**

- A. Brevard Public Schools Open Enrollment options have published annual application deadlines. Families, who relocate to Brevard, from outside the county/state, are permitted to apply during the Open Enrollment timelines. However, if the relocation occurs beyond the deadlines, families will be permitted to apply for an ELO or EPO provided the following required stipulations are met:
  - 1. Schools/Programs must have capacity to accept new students; in compliance with class size amendment (FL Stat. 1003.03)
  - 2. Schools/Programs may NOT have an existing "waitlist" of previous students who applied
  - 3. Student must NOT be enrolled in a Brevard County traditional school, charter school, home education program, virtual school, or private school
  - 4. Parent/Guardian must provide two (2) recent proofs of residency, one from each tier, with an address from out of county/state AND two (2) proofs of residency from Brevard

**XIX. McKay Scholarship (until sunset by Florida Department of School Choice)**

New McKay Scholarship students may be approved at the requested school(s) if:

- A. Student enrollment is projected to be less than ninety-five percent (95%) of the total capacity of the school for the following school year; and
- B. The student's Individual Education Plan (IEP) can be implemented at the school; and
- C. The personnel allocation plan can be implemented for the student's matrix level; and
- D. The school has no more than twenty-two percent (22%) ESE students, excluding gifted.

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Adopted 7/9/19  
Revised 6/28/22

Legal  
F.S. 1001.41  
F.S. 1002.20  
F.S. 1002.31  
F.S. 1002.50  
F.S. 1003.03

BPS Current (6/28/2022)

F.S. 1003.05

F.S. 1003.06

F.S. 1005.05

F.S. 1006.15

F.S. 1013.35

Section 1, Art. IX, Florida Constitution

# Neola Template

Book: Local Policies for Update

Section: Vol. 23, No. 1, June 2022

Title: Revised Policy - Vol. 23, No. 1, June 2022 - CONTROLLED OPEN ENROLLMENT

Number: po5121

## **Revised Policy - Vol. 23, No. 1**

### **5121 - CONTROLLED OPEN ENROLLMENT**

The School Board shall permit a program of controlled open enrollment as set forth herein and in accordance with Florida law. "Controlled open enrollment" means a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential educational school choice as a significant factor. The District's controlled open enrollment program is in addition to the educational choice options provided by Policy 2271 - Articulation and Access to Florida College System Institutions; Policy 2370 - Educational Options; Policy 2370.01 - Virtual Instruction; Policy 2421 - Career and Technical Education; and Policy 9800 - Charter Schools.

### **Components of the District's Controlled Open Enrollment Program**

The District's controlled open enrollment program:

adheres to Federal desegregation requirements;

allows parents to declare school preferences, including placement of siblings within the same school;

provides a lottery procedure to determine student assignment and establishes an appeals process for hardship cases;

affords parents of students in multiple session schools preferred access to controlled open enrollment;

maintains socioeconomic, demographic, and racial balance;

provides for ~~addresses the availability of~~ transportation options, which include the following::

[DRAFTING NOTE - F.S. 1002.31(3) requires the Board to post on its website information regarding the transportation options available in the District.]

Transportation to public schools pursuant to F.S. 1002.38, 1002.39, and 1002.394 (the Opportunity Scholarship Program, the John M. McKay Scholarships for Students with Disabilities Program, and the Family Empowerment Scholarship Program).

Potential funds available for transportation pursuant to F.S. 1002.394, 1002.395, and 1011.68.

\_\_\_\_\_ [Insert any other transportation the District may provide].

\_\_\_\_\_ [Insert any other transportation the District may provide].

maintains existing academic eligibility criteria for public school choice programs pursuant to Florida law;

identifies schools that have not reached capacity, as determined by the District; ~~and~~

ensures that preferential treatment is provided to individuals as set forth in Florida law;.

maintains a wait list of students who are denied access due to capacity and provides for notification to parents when space becomes available; and

accepts students throughout the school year as capacity becomes available.

### **Eligibility for Participation in the Controlled Open Enrollment Program**

In addition to the public school choice programs available under Florida law and provided in the District

pursuant to the policies listed above, a parent of a student under the age of eighteen (18) or an eligible student who lives in the District or in any other school district in the State of Florida who is not subject to a current expulsion or suspension may seek to enroll in a public school in the District that has not reached capacity, subject to the maximum class size pursuant to F.S. 1003.03 and Section 1, Art. IX of the Florida Constitution.

In determining the capacity of each District school, the Board shall incorporate the specifications, plans, elements, and commitments contained in the District's educational facilities plan and the long-term work programs required under Florida law.

A District school shall be at "capacity"

**[OPTION – Choose one of the following]**

once the school has reached \_\_\_\_% capacity as set forth in the Florida Inventory of School Houses (FISH)

for each of the grade levels and/or programs offered in that school.

once the number of enrolled students in a District school equals or exceeds the number of

permanent student stations for each of the grade levels and/or programs offered in that school.

seats available for each of the grade levels and/or programs offered in that school.

\_\_\_\_\_.

**[END OF OPTION]**

"Capacity" as defined herein is subject to program-specific enrollment limitations. Programs with enrollment limitations may include, but are not limited to, self-contained Exceptional Student Education (ESE) programs, career-tech programs, magnet programs, international baccalaureate programs, advanced placement courses, and other academic programs that require student-teacher ratios less than the FISH capacity for that space.

The capacity at each public school in the District shall be identified on the District's website at \_\_\_\_\_.

~~[ ]~~ The capacity information provided on the website will be updated every twelve (12) weeks and shall be by grade level [ ] and/or specific program offered [END OF OPTION] at each District school. [END OF OPTION]

### **Application and Preferential Treatment**

Applications to participate in the District's controlled open enrollment program shall be accepted beginning on \_\_\_\_\_ and ending on \_\_\_\_\_. Applications are available online or in-person at each school and must be submitted no later than \_\_\_\_\_ to \_\_\_\_\_ [ ] in-person [ ] online.

### **[OPTION: IF DESIRED, CHOOSE ONE OF THE FOLLOWING TWO OPTIONS]**

[ ] Applications received after the deadline will not be considered.

[ ] Applications received after the deadline will be processed in accordance with the late-filed applications procedures below.

### **[END OF OPTION]**

Computer access is available at each District school for parents to complete the application. Applicants will be required to identify their primary school of choice in the application including up to \_\_\_ alternate choices ranked in order of preference. Applicants will also be required to identify specific programs, if any, in which they want to enroll at their preferred and alternate school choices.

An applicant's failure to disclose information (e.g., being subject to suspension or expulsion, having a current IEP, being assigned to a Department of Juvenile Justice program, et cetera) that would be relevant to the District's determination that the applicant could be served in a program at his/her preferred or alternate schools and therefore would be accepted shall constitute grounds for revocation of approval to enroll under this policy.

After the close of the application period and the determination of capacity at each school, the District shall conduct a lottery as described below and then process the applications according to the random numbers assigned.

Applications shall be grouped accordingly:

#### Phase 1

Applicants in this phase shall reside in the District and also qualify for preferential treatment in at least one of the following ways:

Dependent children of active duty military personnel whose move resulted from military orders.

Children who have been relocated due to a foster care placement in a different school zone.

Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.

Students in multiple session schools.

A student whose parent is transferred or is pending transfer to a military installation within the District while on active military duty pursuant to an official military order. The student and/or parent must submit the official military order to the District in order to qualify for preferential treatment.

#### Phase 2

Applicants included in this phase reside in the District but are entitled to no other preferential treatment.

#### Phase 3

Applicants included in this phase do not reside in the District but are entitled to preferential treatment in at least one of the following ways:



dependent children of active duty military personnel whose move resulted from military orders;

children who have been relocated due to a foster care placement in a different school zone;

children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent;

students in multiple session schools.

Phase 4

Applicants included in this phase are not entitled to preferential treatment under State law.

### **Lottery**

The lottery will be conducted by

two (2) or more staff members designated by the Superintendent.

\_\_\_\_\_.

The lottery involves the assignment of a random number to each applicant (siblings shall be paired unless requested otherwise). Separate lotteries will be conducted for applicants in Phases 1 through 4. Random numbers will be selected, and the applications in each phase shall be placed in order of their selection.

### **Review of Applications**

Once the application period ends and the lottery has been conducted, the District will review all fully completed applications received by the application deadline. Consideration of applications will be based on the current capacity of each public school in the District. (See definition of "capacity" above). Only those schools identified in the application will be considered by the District.

## Phase 1: Applicants Residing in the District Entitled to Additional Preferential Treatment

The District will review the Phase 1 applications in the order assigned by means of the lottery and will attempt to honor the ranked choices of each applicant.

If a student's application indicates an intent to enroll in a program with enrollment limitations, the Superintendent shall determine whether the student's preferred school has a program already in place in which the student wants to enroll. If there is such a program and it is not at capacity, the student will be enrolled.

If the student's preferred school does not have capacity in the program in which the student wants to enroll, the student shall not be enrolled in that school. The Superintendent shall then determine whether any of the alternate school(s) identified in the student's application have the program in which the student wants to enroll and that program is not at capacity. If so, the District shall offer the student the opportunity to enroll in that school's program.

If none of the student's alternate schools has capacity in the program in which s/he wants to enroll, the student will remain at the current school/program in which s/he is enrolled. If the student is transitioning to a new level of his/her academic program (i.e. from elementary school to middle school or middle school to high school), his/her assignment shall be in accordance with Policy 5120 - Assignment Within District.

This process will continue until the choices listed on each fully completed application has been honored or until all available classroom slots have been filled.

Approved applicants will be notified in writing and shall have \_\_\_\_\_( ) school days to enroll at their chosen school. If the last day for enrollment falls on a day that the school office is not open for business, the deadline shall be extended to the next day that the school office is open for business.

If, after submitting an application to participate in the District's controlled open enrollment program and before a decision is made about the application, a student is suspended or expelled, placed on an IEP, assigned to a Department of Juvenile Justice program, or subject to any alternate assignment as a result of his/her

behavior, within \_\_\_\_\_( ) days the student shall notify the District by submitting documentation related to this change in the student's status. Failure to do so shall constitute grounds for revocation of approval to enroll, if given, under this policy.

Failure to enroll by the deadline identified in the written notification shall result in an automatic revocation of the District's approval of the application. Once the deadline passes for students to enroll at their chosen school, if any capacity remains, the District will begin contacting students in order of lottery selection regarding enrollment opportunities. Applicants who have their approval revoked must submit a new application.

If capacity is reached before all applications can be reviewed and enrollment requests fulfilled, the remaining Phase 1 applications will be maintained on a waiting list in order of lottery number assigned

until two (2) weeks before the first day of school.

until the first day of school.

until \_\_\_\_\_(date).

\_\_\_\_\_.

#### Phase 2: Applicants Residing in the District Not Entitled to Additional Preferential Treatment

If capacity is available after Phase 1, the District will process applications from applicants residing in the District not entitled to additional preferential treatment.

The District will review the Phase 2 applications in the order assigned by means of the lottery and will attempt to honor the ranked choices of each applicant.

If a student's application indicates an intent to enroll in a program with enrollment limitations, the Superintendent shall determine whether the student's preferred school has a program already in place in which the student wants to enroll. If there is such a program and it is not at capacity, the student will be

enrolled.

If the student's preferred school does not have capacity in the program in which the student wants to enroll, the student shall not be enrolled in that school.

The Superintendent shall then determine whether any of the alternate school(s) identified in the student's application have the program in which the student wants to enroll and that program is not at capacity. If so, the District shall offer the student the opportunity to enroll in that school's program.

If none of the student's alternate schools has capacity in the program in which s/he wants to enroll, the student will remain at the current school/program in which s/he is enrolled. If the student is transitioning to a new level of his/her academic program (i.e. from elementary school to middle school or middle school to high school), his/her assignment shall be in accordance with Policy 5120 – Assignment Within District.

This process will continue until the choices listed on each fully completed application has been honored or until all available classroom slots have been filled.

The approved applicants will be notified in writing and shall have \_\_\_\_\_( ) calendar days to enroll at the school where s/he has been offered the opportunity to enroll. If the last day for enrollment falls on a day that the school office is not open for business, the deadline shall be extended to the next day that the school office is open for business.

If, after submitting an application to participate in the District's controlled open enrollment program and before a decision is made about the application, a student is suspended or expelled, placed on an IEP, assigned to a Department of Juvenile Justice program, or subject to any alternate assignment as a result of his/her behavior, within \_\_\_\_\_( ) days the student shall notify the District by submitting documentation related to this change in the student's status. Failure to do so shall constitute grounds for revocation of approval to enroll, if given, under this policy.

Failure to enroll by the deadline identified in the written notification shall result in an automatic revocation of the District's approval of the application. Once the deadline passes for students to enroll at their chosen school, if any capacity remains, the District will begin contacting students in order of lottery selection

regarding enrollment opportunities. Applicants who have their approval revoked must submit a new application.

If capacity is reached before all applications can be reviewed and enrollment requests fulfilled, the remaining Phase 2 applications will be maintained on a waiting list in order of lottery number assigned

until two (2) weeks before the first day of school.

until the first day of school.

until \_\_\_\_\_(date).

\_\_\_\_\_.

### Phase 3: Applicants Residing Outside the District Entitled to Preferential Treatment

If capacity is available after Phases 1 and 2, the District will process applications from applicants residing outside the District who are afforded preferential treatment as set forth above.

The District will review the Phase 3 applications in the order assigned by means of the lottery and will attempt to honor the ranked choices of each applicant.

If a student's application indicates an intent to enroll in a program with enrollment limitations, the Superintendent shall determine whether the student's preferred school has a program already in place in which the student wants to enroll. If there is such a program and it is not at capacity, the student will be enrolled.

If the student's preferred school does not have capacity in the program in which the student wants to enroll, the student shall not be enrolled in that school.

The Superintendent then shall determine whether any of the alternate school(s) identified in the student's application have the program in which the student wants to enroll and that program is not at capacity. If so,

the District shall offer the student the opportunity to enroll in that school's program.

If none of the student's alternate schools has capacity in the program in which s/he wants to enroll, the student's application will be denied.

This process will continue until the choices listed on each fully completed application has been honored or until all available classroom slots have been filled.

The approved applicants will be notified in writing and shall have \_\_\_\_\_( ) calendar days to enroll at their chosen school. If the last day for enrollment falls on a day that the school office is not open for business, the deadline shall be extended to the next day that the school office is open for business.

If, after submitting an application to participate in the District's controlled open enrollment program and before a decision is made about the application, a student is suspended or expelled, placed on an IEP, assigned to a Department of Juvenile Justice program, or subject to any alternate assignment as a result of his/her behavior, within \_\_\_\_\_( ) days the student shall notify the District by submitting documentation related to this change in the student's status. Failure to do so shall constitute grounds for revocation of approval to enroll, if given, under this policy.

Failure to enroll by the deadline identified in the written notification shall result in an automatic revocation of the District's approval of the application. Once the deadline passes for students to enroll at their chosen school, if any capacity remains, the District will begin contacting students in order of lottery selection regarding enrollment opportunities.

Applicants who have their approval revoked must submit a new application.

**[ ]** If capacity is reached before all applications can be reviewed and enrollment requests fulfilled, the remaining Phase 3 applications will be maintained on a waiting list in order of lottery number assigned

**( )** until two (2) weeks before the first day of school.

**( )** until the first day of school.

( ) until \_\_\_\_\_(date).

( ) \_\_\_\_\_.

#### Phase 4: All Remaining Applicants Not Entitled to Preferential Treatment

If capacity is available after Phases 1 through 3, the District will process applications from applicants residing outside the District not entitled to preferential treatment.

The District will review the Phase 4 applications in the order assigned by means of the lottery and will attempt to honor the ranked choices of each applicant.

If a student's application indicates an intent to enroll in a program with enrollment limitations, the Superintendent shall determine whether the student's preferred school has a program already in place in which the student wants to enroll. If there is such a program and it is not at capacity, the student will be enrolled.

If the student's preferred school does not have capacity in the program in which the student wants to enroll, the student shall not be enrolled in that school.

The Superintendent then shall determine whether any of the alternate school(s) identified in the student's application have the program in which the student wants to enroll and that program is not at capacity. If so, the District shall offer the student the opportunity to enroll in that school's program.

If none of the student's alternate schools has capacity in the program in which s/he wants to enroll, the student's application will be denied.

This process will continue until the choices listed on each fully completed application has been honored or until all available classroom slots have been filled.

The approved applicants will be notified in writing and shall have \_\_\_\_\_( ) calendar days to enroll at their

chosen school. If the last day for enrollment falls on a day that the school office is not open for business, the deadline shall be extended to the next day that the school office is open for business.

If, after submitting an application to participate in the District's controlled open enrollment program and before a decision is made about the application, a student is suspended or expelled, placed on an IEP, assigned to a Department of Juvenile Justice program, or subject to any alternate assignment as a result of his/her behavior, within \_\_\_\_\_( ) days the student shall notify the District by submitting documentation related to this change in the student's status. Failure to do so shall constitute grounds for revocation of approval to enroll, if given, under this policy.

Failure to enroll by the deadline identified in the written notification shall result in an automatic revocation of the District's approval of the application. Once the deadline passes for students to enroll at their chosen school, if any capacity remains, the District will begin contacting students in order of lottery selection regarding enrollment opportunities. Applicants who have their approval revoked must submit a new application.

If capacity is reached before all applications can be reviewed and enrollment requests fulfilled, the remaining Phase 4 applications will be maintained on a waiting list in order of lottery number assigned

until two (2) weeks before the first day of school.

until the first day of school.

until \_\_\_\_\_(date).

\_\_\_\_\_.

## Appeals

Applicants who are not accepted for enrollment may appeal to  **the Superintendent**  \_\_\_\_\_ within \_\_\_\_ calendar days of receipt of the District's notice advising them that their application was denied. If the last day for appeal falls on a day that the school office is not open for business,



the deadline shall be extended to the next day that the school office is open for business.

The appeal must be submitted in writing, must be based on hardship, and must include as much detail as possible regarding the hardship. Appeals will be considered by  the Superintendent  \_\_\_\_\_ and the decision of  the Superintendent  \_\_\_\_\_ is final.

Applicants will be notified in writing of  the Superintendent's  \_\_\_\_\_'s decision.

"Hardship" includes, but is not limited to, the following:

- medical and/or psychological matters
- law enforcement matters
- employment needs
- any other circumstances demonstrating a hardship
- \_\_\_\_\_.

**[OPTIONAL SECTION]**

**Late-Filed Applications**

Applications received after the application deadline will be reviewed and considered after processing all applications in Phases 1 through 4, as well as the deadline for appeals. Late-filed applications will be approved only if a hardship exists and there is capacity in the school(s) that the student has listed as his/her preference(s) on the application.

Late-filing applicants who are not accepted for enrollment may appeal to \_\_\_\_\_ within \_\_\_\_\_ calendar days of receipt of the District's notice advising them that their application was denied.

If the last day for appeal falls on a day that the school office is not open for business, the deadline shall be extended to the next day that the school office is open for business.

The appeal must be submitted in writing, must be based on hardship, and must include as much detail as possible regarding the hardship. Appeals will be considered by  and the decision of  **the Superintendent**  \_\_\_\_\_ is final.

Applicants will be notified in writing of the \_\_\_\_\_'s decision.

No applications will be accepted after \_\_\_\_\_.

### **[END OF OPTIONAL SECTION]**

#### **Students Residing in the District**

Students residing in the District (including charter school students) will not be displaced by a student from another school district seeking enrollment under the District's controlled open enrollment program.

#### **Completion of Highest Grade Level**

A student who enrolls in the District through the District's controlled open enrollment program may remain at his/her current school until completion of the highest grade at the school.

After completing the highest grade at the school, a student who resides in another school district and wants to transition to the next level of the academic program in this District must reapply for enrollment through the controlled open enrollment program.

After completing the highest grade at the school, a student who resides in the District and wants to transition to the next level of the academic program at a school other than the one to which s/he would be assigned in accordance with Policy 5120 - Assignment Within the District must reapply for enrollment at his/her preferred school, as well as (an) alternate school(s), through the controlled open enrollment program.

## **Maintaining Appropriate Socioeconomic, Demographic, and Racial Balance**

Given our diverse society and the importance of preparing students for education, work, and citizenship, the Board is committed to providing students with equal educational opportunities, promoting educational diversity in the District, and providing students with the educational benefits of a diverse student body. To that end, should a concern arise regarding socioeconomic, demographic, or racial balance in one or more of the District's schools, the Superintendent shall consult with legal counsel to determine the appropriate steps that should be taken, including, but not limited to, any necessary policy revisions and other actions necessary to comply with Florida and Federal law. The Superintendent shall then make the appropriate recommendations to the Board.

( ) It should be noted that as of \_\_\_\_\_ **[insert date policy was adopted/revised]** there are no racially isolated buildings within the School District.

## **Transportation**

### **[CHOOSE ONE THE FOLLOWING TWO OPTIONS]**

#### **[OPTION 1]**

The District does not provide transportation to students enrolling under this policy unless otherwise required by State or Federal laws.

#### **[END OF OPTION 1]**

#### **[OPTION 2]**

Subject to seating availability and after taking into account the transportation needs of students currently attending District schools, the District may provide transportation to students under this policy on an established bus route to and from the school to which they have been granted admission unless otherwise required by State or Federal laws.

#### **[END OF OPTION 2]**

## **Interscholastic and Intra-scholastic Extra-curricular Activities**

A student who enrolls in the District through the District's controlled open enrollment program is immediately eligible to participate in interscholastic and intra-scholastic extra-curricular activities; however, a student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one (1) of the following criteria:

Dependent children of active duty military personnel whose move resulted from military orders.

Children who have been relocated due to a foster care placement in a different school zone.

Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.

Authorized for good cause.

"Good cause" is defined in Policy 2431.01 – Participation by Transfer Students.

A student who believes "good cause" exists must submit a written request to \_\_\_\_\_ identifying the facts and circumstances the student believes establishes "good cause". The Superintendent will consider the written request and make a recommendation to the Board during a publicly noticed meeting.

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### Legal References

Section 1, Art. IX, Florida Constitution

F.S. 1002.20

F.S. 1002.31

F.S. 1003.03

F.S. 1003.05

F.S. 1013.35

# Redline Draft

## 5121 – Controlled Open Enrollment

The School Board shall permit a program of controlled open enrollment as set forth herein and in accordance with Florida law. “Controlled Open Enrollment” means a public education delivery system that allows school districts to make student school assignments using parents’/legal guardians’ indicated preferential educational school choice as a significant factor. The District’s controlled open enrollment program is in addition to the educational choice options provided by Policy 2271-Articulation and Access to Florida College System Institutions; Policy 2370-Educational Options; Policy 2370.1-Virtual Instruction; Policy 2421-Career and Technical Education; and Policy 9800-Charter Schools.

### I. Components of the District’s Controlled Open Enrollment Program

The District’s Controlled Open Enrollment Program:

- A. Adheres to Federal desegregation requirements;
- B. Allows parents/legal guardians to declare school preferences, including placement of siblings within the same school;
- C. Provides a lottery procedure to determine student assignment and establishes an appeals process for hardship cases;
- D. Affords parents of students in multiple session schools preferred access to controlled open enrollment;
- E. Maintains socioeconomic, demographic, and racial balance;
- F. ~~Addresses the availability of transportation~~Provides transportation information for parents on the district website pursuant to F.S. 1002.394;
- G. Maintains existing academic eligibility criteria for public school choice programs pursuant to Florida law;
- H. Identifies schools that have reached capacity, as determined by the District; ~~and~~
- I. Ensures that preferential treatment is provided to individuals as set forth in Florida law;
- J. Maintains a waitlist of students who are denied access due to capacity and provides notification to parents when seats are available; and

~~L.K.~~ Accepts students at regular intervals as capacity becomes available throughout the year.

## II. Eligibility for Participation in the Controlled Open Enrollment Program

A. In addition to the public school choice programs available under Florida law a parent/legal guardian of a student under the age of eighteen (18), or an eligible student who lives in the District or in any other school district in the State of Florida who is not subject to current expulsion or suspension, may seek to enroll in a public school in the District that has not reached capacity, subject to the maximum class size pursuant to F.S. 1003.03, and Section 1, Article IX of the Florida Constitution.

B. A District school shall be at “capacity”:

1. Once the school has reached ninety five percent (95%) total capacity as set forth in the Florida Inventory of School Houses (FISH) and/or
2. Once the number of enrolled students in the District school equals or exceeds the number of seats available for each of the grade levels and/or programs offered in the school.

C. The Superintendent or the Superintendent’s designee may “freeze” a school to new incoming Educational Location Option (ELO) requests regardless of the projected student enrollment to total capacity ratio, if the Superintendent or Superintendent’s designee, with the input of representatives from Facilities and/or Leading and Learning, determines that this restriction is in the best interest of the District.

D. “Capacity” as defined herein is subject to program-specific enrollment limitations. Programs with enrollment limitations may include, but are not limited to, self-contained Exceptional Student Education (ESE), career-tech, magnet, International Baccalaureate (IB), Cambridge, and other academic programs that require student-teacher ratios less than the FISH capacity for that space.

E. The public schools in the District that have reached capacity shall be identified on the District’s website.

~~E.F.~~ Capacity information for each school by grade level available seats will be updated and posted on the District’s website at least every twelve (12) weeks.

## III. Applications and Preferential Treatment

- A. Applications to participate in the District’s controlled open enrollment program shall be accepted within the published timelines located on the Districts website.
- B. Timelines are determined annually and posted on the District’s website.
- C. Computer access is available upon request at each District school for parents to complete the application.
- D. Applicants will be required to identify their primary school of choice or specific program within the application.
- E. An applicant’s failure to disclose information (e.g., being subject to suspension or expulsion, having a current IEP that is served in a categorical unit, being assigned to a Department of Juvenile Justice program) that would be relevant to the District’s determination that the applicant could be served in a program at his/her preferred or alternate schools and therefore would be accepted shall constitute grounds for revocation of approval to enroll under this policy.
- F. After the close of the application period and the determination of capacity at each school, the District shall conduct a lottery as described below and then process the applications according to the random numbers assigned.
- G. Applications are grouped accordingly:

Tier I – Special Consideration

Applicants included in this tier who reside in the District but are unable to apply during the application window are entitled to preferential treatment in at least one (1) of the following ways:

- a. Dependent children of active military personnel whose move resulted from military orders and resides within the District. Official military orders must be submitted to the Patrick Space Force Base military liaison who will complete the requisite forms to verify preferential treatment;
- b. Children who have been relocated due to foster care placement in a different school zone; and/or
- c. Children who move due to court-ordered change in custody or, due to separation or divorce or serious illness or death of a custodial parent/legal guardian.



#### Tier II – Site-Based Employee Preference

District employees working at a school are considered site-based employees of that school and qualify for the site-based employee preference. Capacity restrictions do not apply to site-based employees. Furthermore, children of site-based employees working at a School of Choice (Educational Program Option) must meet the entry requirements, if applicable.

#### Tier III – Sibling Preference

Family member(s) of a current student who is residing at the same residence as his/her sibling, who will also begin his/her attendance at the same school during a year in which the current student is attending the school, qualify for sibling preference. Siblings who do not begin their attendance at the school while the current student is attending the school do not qualify for sibling preference.

#### Tier IV – Family Preference

A student whose sibling has been offered a seat through the lottery process qualifies for the family preference for the next available seat in the applicable grade level or program pursuant to entry requirements, if applicable.

#### Tier V – District Students

Children who reside in the District are entitled to no other preferential treatment.

#### Tier VI – Out-of-District Students

Students who reside in another county within the state and are not entitled to preferential treatment under state law are known as out-of-district students. Under F.S. 1002.31, and therefore may not displace a student from within the district.

### **IV. Lottery**

- A. The lottery will be conducted by two (2) or more staff members designated by the Superintendent.
- B. The lottery involves the assignment of a random number to each applicant. Siblings in the same grade level/twins/triplets will be assigned the same number unless otherwise requested.
- C. Separate lotteries will be conducted for applicants in the following order:

- a. Tier I
  - b. Tier II
  - c. Tier III
  - d. Tier IV
  - e. Tier V
  - f. Tier VI
- D. Applicants will be offered seats as capacity in the school, grade level, or program allows.
- E. Applicants will be notified of the seat offering or waitlist status through the District's application program.
- F. Applicants have fourteen (14) calendar days to accept the seat offered.
- G. Students may only commit to one (1) school or program.
- H. Accepting a seat at more than one (1) school or program will result in forfeiture of all seats accepted.
- I. Applicants who were not offered a seat will be waitlisted in rank order. Waitlisted applicants may be offered a seat as seats become available throughout the school year.
- J. Upon accepting a seat in a school or program, students may then register at that school.

## **V. Appeals**

- A. Applicants who are not accepted for enrollment may appeal to the Superintendent's Designee within fourteen (14) calendar days from the receipt of the District's notice advising them that their application was denied. If the last day for appeal falls on a day that the District or School Office is not open for business, the deadline shall be extended to the next day that the school office is open for business.
- B. The appeal must be submitted in writing, must be based on a hardship, and must include as much detail as possible regarding the hardship.
- C. Appeals will be considered by an Appeals Team consisting of representatives from various District departments. The Appeals Team decisions are final.
- D. Applicants will be notified in writing via email of the Appeals Team decision.

- E. "Hardship" includes but is not limited to the following:
1. Medical or psychological matters
  2. Law enforcement matters
  3. Employment needs
  4. Any other circumstances demonstrating a hardship

**VI. Students Residing in the District**

- A. Students residing in the District will not be displaced by a student from another district seeking enrollment under the District's controlled open enrollment program.

**VII. Completion of Highest Grade Level**

- A. A student who enrolls through the District's controlled open enrollment program may remain at his/her current school until the completion of the highest grade at that school.
- B. After completing the highest grade at that school, a student who resides in another school zone and wants to transition to the next level of the academic program in this District, must reapply for enrollment through the controlled open enrollment process.

**VIII. Maintaining Appropriate Socioeconomic, Demographic, and Racial Balance**

- A. Given our diverse society and the importance of preparing students for education, work, citizenship, the Board is committed to providing students with equal educational opportunities, promoting educational diversity in the District, and providing students with the educational benefits of a diverse student body. To that end, should a concern arise regarding socioeconomic, demographic, or racial balance in one or more of the District's schools, the Superintendent shall consult with legal counsel to determine the appropriate steps that should be taken, including, but not limited to, any necessary policy revisions and other actions necessary to comply with Florida and Federal law. The Superintendent shall then make the appropriate recommendations to the Board.

**IX. Open Enrollment Revocation**

Approval of an Educational Location Option (ELO) or Educational Program Opportunity (EPO) may be revoked for certain reasons: Students and parents are required to complete an acknowledgement of the expectations for participation and enrollment in these schools or programs. Approval may be revoked for the following reasons:

- A. Poor attendance;

- B. Chronic misbehavior;
- C. Lack of academic effort by the student;
- D. Excessive tardiness, early check outs, or late pick-up after school of the student; and/or
- E. Falsification of application details;
- F. Falsification or misrepresentation of address or entrance documents.

**VI.X. Transportation**

- A. Transportation is the responsibility of the parent/legal guardian.

**VII.XI. Interscholastic and Intra-scholastic Extra-curricular Activities**

- A. A student who is approved to attend his/her requested school through the District's controlled open enrollment process, and enrolls in the school, is immediately eligible to participate in interscholastic and intra-scholastic extra-curricular activities. However, a student may not participate in a sport if the student participates in that same sport at another school during that school year, unless the student meets one (1) of the following criteria:
  - 1. Dependent children of active-duty military personnel whose move resulted from military orders;
  - 2. Children who have been relocated due to a foster care placement in a different school zone;
  - 3. Children who move due to a court-ordered change in custody due to separation or divorce, or serious illness or death of a custodial parent/legal guardian; and/or
  - 4. Authorized for good cause as defined by the Florida High School Athletic Association (FHSA).
- B. A student who believes "good cause" exists to deviate from this portion of the policy must submit a written request to the Superintendent's designee identifying the facts and circumstances that the student believes establishes "good cause."

**VIII.XII. Non-traditional Students and Extra-curricular Activities**

- A. In accordance with FHSAA, parents/legal guardians of a non-traditional student who wishes to participate in a sport at a school for which the student is not zoned must follow the procedures in this policy and apply through the ELO process within the determined deadlines.

### **~~IX~~.XIII. Assistance to Transitioning Students from Military Families**

Students of military families may be faced with numerous transitions during their school years. The District, in compliance with Florida law, will promote practices that will assist the military families transitioning to Brevard County. Through collaboration, a memorandum of agreement between the District and the local military installation has been developed and implemented to provide special consideration to students for admission under the District's controlled open enrollment processes and who meet applicable eligibility requirements.

### **~~XV~~.XIV. Implementation Flexibility**

- A. The Board grants to the Superintendent flexibility in the placement of students under this policy due to extenuating circumstances. The Superintendent or designee shall notify the Board in writing of any exceptions to this policy.

### **~~XV~~.XV. Educational Program Opportunity (EPO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance for the purposes of attending an Educational Program Opportunity (EPO) at another school.
- B. Applications for an EPO can be found on the District's website and shall be submitted electronically.
- C. An EPO applicant must be a Florida resident at time of application with documentation of residency.
- D. Should a specific program be offered at a student's zoned school of attendance, he/she would **not** be eligible to apply to another school for the same program.
- E. The approval of a student to attend a school other than his/her zoned school of attendance for the purposes of attending an EPO is valid for as long as the student participates in said program at the identified school.

- F. An EPO student must return to his/her zoned school of attendance at the end of the semester if he/she no longer participates in the program.

**XI.XVI. Educational Location Option (ELO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance by completing an application requesting an Educational Location Option (ELO).
- B. Applications for an ELO can be found on the District's website and shall be submitted electronically.
- C. An ELO applicant must be a Florida resident at time of application with documentation of residency.

**XII.XVII. Non-Resident Students**

- A. Students who are not residents of Brevard County may attend a school in the District upon compliance with Florida laws governing admission of students to the schools of the State.
- B. A non-resident student may not displace students who reside in the District.

**XVIII. New Resident to Brevard**

-

- A. Brevard Public Schools Open Enrollment options have published annual application deadlines. Families, who relocate to Brevard, from outside the county/state, are permitted to apply during the Open Enrollment timelines. However, if the relocation occurs beyond the deadlines, families will be permitted to apply for an ELO or EPO provided the following required stipulations are met:
  - 1. Schools/Programs must have capacity to accept new students; in compliance with class size amendment (F.S. 1003.03)
  - 
  - 2. Student must NOT be enrolled in a Brevard County traditional school, charter school, home education program, virtual school, or private school
  - 
  - 3. Parent/Guardian must provide two (2) recent proofs of residency, one from each tier, with an address from out of county/state AND two (2) proofs of residency from Brevard.

**XIII. McKay Scholarship (until sunset by Florida Department of School Choice)**

New McKay Scholarship students may be approved at the requested school(s) if:

- ~~A. Student enrollment is projected to be less than ninety five percent (95%) of the total capacity of the school for the following school year; and~~
- ~~B. The student's Individual Education Plan (IEP) can be implemented at the school; and~~
- ~~C. The personnel allocation plan can be implemented for the student's matrix level; and~~
- ~~D. The school has no more than twenty two percent (22%) ESE students, excluding gifted.~~

Adopted 7/9/19

Revised 1/31/22

Revised

Legal

Section 1, Art. IX, Florida Constitution

F.S. 1001.41

F.S. 1002.20

F.S. 1002.31

F.S. 1002.50

F.S. 1003.03

F.S. 1003.05

F.S. 1003.06

F.S. 1005.05

F.S. 1006.15

F.S. 1013.35

~~Section 1, Art. IX, Florida Constitution~~

~~F.S. 1002.20~~

~~F.S. 1002.31~~

~~F.S. 1003.03~~

~~F.S. 1003.05~~

~~F.S. 1013.35~~

Cross References

po2271 - POSTSECONDARY ENROLLMENT PROGRAMS

REDLINE Rev: 12/21/2022, 1/24/23, 2/7/23

po2370 - EDUCATIONAL OPTIONS

po2421 - CAREER AND TECHNICAL EDUCATION PROGRAMS

po2431 - INTERSCHOLASTIC ATHLETICS

po5120 - ASSIGNMENT WITHIN DISTRICT

po9800 - CHARTER SCHOOLS



# Clean Version

## **5121 – Controlled Open Enrollment**

The School Board shall permit a program of controlled open enrollment as set forth herein and in accordance with Florida law. “Controlled Open Enrollment” means a public education delivery system that allows school districts to make student school assignments using parents’/legal guardians’ indicated preferential educational school choice as a significant factor. The District’s controlled open enrollment program is in addition to the educational choice options provided by Policy 2271-Articulation and Access to Florida College System Institutions; Policy 2370-Educational Options; Policy 2370.1-Virtual Instruction; Policy 2421-Career and Technical Education; and Policy 9800-Charter Schools.

### **I. Components of the District’s Controlled Open Enrollment Program**

The District’s Controlled Open Enrollment Program:

- A. Adheres to Federal desegregation requirements;
- B. Allows parents/legal guardians to declare school preferences, including placement of siblings within the same school;
- C. Provides a lottery procedure to determine student assignment and establishes an appeals process for hardship cases;
- D. Affords parents of students in multiple session schools preferred access to controlled open enrollment;
- E. Maintains socioeconomic, demographic, and racial balance;
- F. Provides transportation information for parents on the district website pursuant to F.S. 1002.394;
- G. Maintains existing academic eligibility criteria for public school choice programs pursuant to Florida law;
- H. Identifies schools that have reached capacity, as determined by the District;
- I. Ensures that preferential treatment is provided to individuals as set forth in Florida law;
- J. Maintains a waitlist of students who are denied access due to capacity and provides notification to parents when seats are available; and

- K. Accepts students at regular intervals as capacity becomes available throughout the year.

## II. Eligibility for Participation in the Controlled Open Enrollment Program

- A. In addition to the public school choice programs available under Florida law a parent/legal guardian of a student under the age of eighteen (18), or an eligible student who lives in the District or in any other school district in the State of Florida who is not subject to current expulsion or suspension, may seek to enroll in a public school in the District that has not reached capacity, subject to the maximum class size pursuant to F.S. 1003.03, and Section 1, Article IX of the Florida Constitution.
- B. A District school shall be at “capacity”:
  - 1. Once the school has reached ninety five percent (95%) total capacity as set forth in the Florida Inventory of School Houses (FISH) and/or
  - 2. Once the number of enrolled students in the District school equals or exceeds the number of seats available for each of the grade levels and/or programs offered in the school.
- C. The Superintendent or the Superintendent’s designee may “freeze” a school to new incoming Educational Location Option (ELO) requests regardless of the projected student enrollment to total capacity ratio, if the Superintendent or Superintendent’s designee, with the input of representatives from Facilities and/or Leading and Learning, determines that this restriction is in the best interest of the District.
- D. “Capacity” as defined herein is subject to program-specific enrollment limitations. Programs with enrollment limitations may include, but are not limited to, self-contained Exceptional Student Education (ESE), career-tech, magnet, International Baccalaureate (IB), Cambridge, and other academic programs that require student-teacher ratios less than the FISH capacity for that space.
- E. The public schools in the District that have reached capacity shall be identified on the District’s website.
- F. [Capacity information for each school by grade level available seats will be updated and posted on the District’s website at least every twelve \(12\) weeks.](#)

## III. Applications and Preferential Treatment

- A. Applications to participate in the District's controlled open enrollment program shall be accepted within the published timelines located on the Districts website.
- B. Timelines are determined annually and posted on the District's website.
- C. Computer access is available upon request at each District school for parents to complete the application.
- D. Applicants will be required to identify their primary school of choice or specific program within the application.
- E. An applicant's failure to disclose information (e.g., being subject to suspension or expulsion, having a current IEP that is served in a categorical unit, being assigned to a Department of Juvenile Justice program) that would be relevant to the District's determination that the applicant could be served in a program at his/her preferred or alternate schools and therefore would be accepted shall constitute grounds for revocation of approval to enroll under this policy.
- F. After the close of the application period and the determination of capacity at each school, the District shall conduct a lottery as described below and then process the applications according to the random numbers assigned.
- G. Applications are grouped accordingly:

Tier I – Special Consideration

Applicants included in this tier who reside in the District but are unable to apply during the application window are entitled to preferential treatment in at least one (1) of the following ways:

- a. Dependent children of active military personnel whose move resulted from military orders and resides within the District. Official military orders must be submitted to the Patrick Space Force Base military liaison who will complete the requisite forms to verify preferential treatment;
- b. Children who have been relocated due to foster care placement in a different school zone; and/or
- c. Children who move due to court-ordered change in custody or, due to separation or divorce or serious illness or death of a custodial parent/legal guardian.

### Tier II – Site-Based Employee Preference

District employees working at a school are considered site-based employees of that school and qualify for the site-based employee preference. Capacity restrictions do not apply to site-based employees. Furthermore, children of site-based employees working at a School of Choice (Educational Program Option) must meet the entry requirements, if applicable.

### Tier III – Sibling Preference

Family member(s) of a current student who is residing at the same residence as his/her sibling, who will also begin his/her attendance at the same school during a year in which the current student is attending the school, qualify for sibling preference. Siblings who do not begin their attendance at the school while the current student is attending the school do not qualify for sibling preference.

### Tier IV – Family Preference

A student whose sibling has been offered a seat through the lottery process qualifies for the family preference for the next available seat in the applicable grade level or program pursuant to entry requirements, if applicable.

### Tier V – District Students

Children who reside in the District are entitled to no other preferential treatment.

### Tier VI – Out-of-District Students

Students who reside in another county within the state and are not entitled to preferential treatment under state law are known as out-of-district students. Under F.S. 1002.31, and therefore may not displace a student from within the district.

## **IV. Lottery**

- A. The lottery will be conducted by two (2) or more staff members designated by the Superintendent.
- B. The lottery involves the assignment of a random number to each applicant. Siblings in the same grade level/twins/triplets will be assigned the same number unless otherwise requested.
- C. Separate lotteries will be conducted for applicants in the following order:

- a. Tier I
  - b. Tier II
  - c. Tier III
  - d. Tier IV
  - e. Tier V
  - f. Tier VI
- D. Applicants will be offered seats as capacity in the school, grade level, or program allows.
  - E. Applicants will be notified of the seat offering or waitlist status through the District's application program.
  - F. Applicants have fourteen (14) calendar days to accept the seat offered.
  - G. Students may only commit to one (1) school or program.
  - H. Accepting a seat at more than one (1) school or program will result in forfeiture of all seats accepted.
  - I. Applicants who were not offered a seat will be waitlisted in rank order. Waitlisted applicants may be offered a seat as seats become available throughout the school year.
  - J. Upon accepting a seat in a school or program, students may then register at that school.

**V. Appeals**

- A. Applicants who are not accepted for enrollment may appeal to the Superintendent's Designee within fourteen (14) calendar days from the receipt of the District's notice advising them that their application was denied. If the last day for appeal falls on a day that the District or School Office is not open for business, the deadline shall be extended to the next day that the school office is open for business.
- B. The appeal must be submitted in writing, must be based on a hardship, and must include as much detail as possible regarding the hardship.
- C. Appeals will be considered by an Appeals Team consisting of representatives from various District departments. The Appeals Team decisions are final.
- D. Applicants will be notified in writing via email of the Appeals Team decision.

- E. "Hardship" includes but is not limited to the following:
  - 1. Medical or psychological matters
  - 2. Law enforcement matters
  - 3. Employment needs
  - 4. Any other circumstances demonstrating a hardship

#### **VI. Students Residing in the District**

- A. Students residing in the District will not be displaced by a student from another district seeking enrollment under the District's controlled open enrollment program.

#### **VII. Completion of Highest Grade Level**

- A. A student who enrolls through the District's controlled open enrollment program may remain at his/her current school until the completion of the highest grade at that school.
- B. After completing the highest grade at that school, a student who resides in another school zone and wants to transition to the next level of the academic program in this District, must reapply for enrollment through the controlled open enrollment process.

#### **VIII. Maintaining Appropriate Socioeconomic, Demographic, and Racial Balance**

- A. Given our diverse society and the importance of preparing students for education, work, citizenship, the Board is committed to providing students with equal educational opportunities, promoting educational diversity in the District, and providing students with the educational benefits of a diverse student body. To that end, should a concern arise regarding socioeconomic, demographic, or racial balance in one or more of the District's schools, the Superintendent shall consult with legal counsel to determine the appropriate steps that should be taken, including, but not limited to, any necessary policy revisions and other actions necessary to comply with Florida and Federal law. The Superintendent shall then make the appropriate recommendations to the Board.

#### **IX. Open Enrollment Revocation**

Approval of an Educational Location Option (ELO) or Educational Program Opportunity (EPO) may be revoked for certain reasons: Students and parents are required to complete an acknowledgement of the expectations for participation and enrollment in these schools or programs. Approval may be revoked for the following reasons:

- A. Poor attendance;

- B. Chronic misbehavior;
- C. Lack of academic effort by the student;
- D. Excessive tardiness, early check outs, or late pick-up after school of the student; and/or
- E. Falsification of application details;
- F. Falsification or misrepresentation of address or entrance documents.

**X. Transportation**

- A. Transportation is the responsibility of the parent/legal guardian.

**XI. Interscholastic and Intra-scholastic Extra-curricular Activities**

- A. A student who is approved to attend his/her requested school through the District's controlled open enrollment process, and enrolls in the school, is immediately eligible to participate in interscholastic and intra-scholastic extra-curricular activities. However, a student may not participate in a sport if the student participates in that same sport at another school during that school year, unless the student meets one (1) of the following criteria:
  - 1. Dependent children of active-duty military personnel whose move resulted from military orders;
  - 2. Children who have been relocated due to a foster care placement in a different school zone;
  - 3. Children who move due to a court-ordered change in custody due to separation or divorce, or serious illness or death of a custodial parent/legal guardian; and/or
  - 4. Authorized for good cause as defined by the Florida High School Athletic Association (FHSA).
- B. A student who believes "good cause" exists to deviate from this portion of the policy must submit a written request to the Superintendent's designee identifying the facts and circumstances that the student believes establishes "good cause."

**XII. Non-traditional Students and Extra-curricular Activities**



- A. In accordance with FHSAA, parents/legal guardians of a non-traditional student who wishes to participate in a sport at a school for which the student is not zoned must follow the procedures in this policy and apply through the ELO process within the determined deadlines.

**XIII. Assistance to Transitioning Students from Military Families**

Students of military families may be faced with numerous transitions during their school years. The District, in compliance with Florida law, will promote practices that will assist the military families transitioning to Brevard County. Through collaboration, a memorandum of agreement between the District and the local military installation has been developed and implemented to provide special consideration to students for admission under the District's controlled open enrollment processes and who meet applicable eligibility requirements.

**XIV. Implementation Flexibility**

- A. The Board grants to the Superintendent flexibility in the placement of students under this policy due to extenuating circumstances. The Superintendent or designee shall notify the Board in writing of any exceptions to this policy.

**XV. Educational Program Opportunity (EPO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance for the purposes of attending an Educational Program Opportunity (EPO) at another school.
- B. Applications for an EPO can be found on the District's website and shall be submitted electronically.
- C. An EPO applicant must be a Florida resident at time of application with documentation of residency.
- D. Should a specific program be offered at a student's zoned school of attendance, he/she would **not** be eligible to apply to another school for the same program.
- E. The approval of a student to attend a school other than his/her zoned school of attendance for the purposes of attending an EPO is valid for as long as the student participates in said program at the identified school.

- F. An EPO student must return to his/her zoned school of attendance at the end of the semester if he/she no longer participates in the program.

**XVI. Educational Location Option (ELO)**

- A. A student may apply to attend a school other than his/her zoned school of attendance by completing an application requesting an Educational Location Option (ELO).
- B. Applications for an ELO can be found on the District's website and shall be submitted electronically.
- C. An ELO applicant must be a Florida resident at time of application with documentation of residency.

**XVII. Non-Resident Students**

- A. Students who are not residents of Brevard County may attend a school in the District upon compliance with Florida laws governing admission of students to the schools of the State.
- B. A non-resident student may not displace students who reside in the District.

**XVIII. New Resident to Brevard**

- A. Brevard Public Schools Open Enrollment options have published annual application deadlines. Families, who relocate to Brevard, from outside the county/state, are permitted to apply during the Open Enrollment timelines. However, if the relocation occurs beyond the deadlines, families will be permitted to apply for an ELO or EPO provided the following required stipulations are met:
  - 1. Schools/Programs must have capacity to accept new students; in compliance with class size amendment (F.S. 1003.03)
  - 2. Student must NOT be enrolled in a Brevard County traditional school, charter school, home education program, virtual school, or private school
  - 3. Parent/Guardian must provide two (2) recent proofs of residency, one from each tier, with an address from out of county/state AND two (2) proofs of residency from Brevard.

Adopted 7/9/19

Revised 1/31/22

Revised \_\_\_\_\_

Legal

Section 1, Art. IX, Florida Constitution

F.S. 1001.41

F.S. 1002.20

F.S. 1002.31

F.S. 1002.50

F.S. 1003.03

F.S. 1003.05

F.S. 1003.06

F.S. 1005.05

F.S. 1006.15

F.S. 1013.35

Cross References

po2271 - POSTSECONDARY ENROLLMENT PROGRAMS

po2370 - EDUCATIONAL OPTIONS

po2421 - CAREER AND TECHNICAL EDUCATION PROGRAMS

po2431 - INTERSCHOLASTIC ATHLETICS

po5120 - ASSIGNMENT WITHIN DISTRICT

po9800 - CHARTER SCHOOLS