

**ADMISSION OF NONRESIDENT STUDENTS
(OPEN ENROLLMENT - SDCL 13-28-40 THROUGH 13-28-47)**

The board will accept all students from other districts wishing to enroll, provided the Brookings School District's facilities can accommodate the students without adversely affecting the quality of the educational program. This determination will be based upon criteria adopted by the board (see Section II below) and is subject to the following procedures:

I. PROCEDURES

1. A student who is a legal resident of another South Dakota district seeking to transfer to the Brookings School District must make application to the Brookings School District. The application must be on forms provided by the South Dakota Department of Education. The application must be made by an un-emancipated student's parent or guardian or by the emancipated student.
2. The application will be approved or denied by the Brookings School Board and the applicant and the resident board must be notified of the decision within five (5) days of the board's decision. Applications will be reviewed in the order received.
3. Transfers into the Brookings School District under the provisions of §§ 13-28-40 to 13-28-47, inclusive, may only take place prior to the last Friday in September during the first semester of any school year, and prior to the last Friday in January during the second semester of any school year. If the Brookings School District approves an application for such a transfer after the deadline in the first semester, the transfer will occur at the start of the second semester. If the Brookings School District approves an application for such a transfer after the deadline in the second semester, the transfer will occur at the start of the following school year. However, the deadlines for transfer do not apply if:
 - a. A student is seeking to transfer to an alternative school or a specialized nonpublic educational program;
 - b. A student enrolls in the Brookings School District after the deadline in either semester; or
 - c. If the Brookings School District School Board determines that special circumstances exist and it is in the best interest of the student and school district to allow a student to transfer after the deadline.
4. The applicant may withdraw the application prior to the approval of the request and upon notification of the district to which the student applied.

5. Once approved by the Brookings School District, the applicant's intent to enroll obligates the student to attend school in the Brookings School District for the next school year, unless the two boards agree in writing to allow a student to return to the original district or assigned school, or if the parent, guardian, or student changes residence to another district.
6. Once enrolled in the Brookings School District, the enrollment will continue unless a bona fide change of residence occurs or a subsequent transfer application is received.
7. The Brookings School District will accept credits granted for any course successfully completed in another accredited district. The Brookings School District may award a diploma to a non-resident only if the student satisfactorily meets the Brookings School District graduation requirements.
8. Transportation of non-resident students to school is the responsibility of the applicant.

II. CRITERIA FOR MAKING OPEN ENROLLMENT DETERMINATIONS

Discrimination based upon race, religion, gender, gender identity, sexual orientation, age, national origin or disability is prohibited.

1. The board reserves the right to annually establish capacities of programs, classes, grade levels, and buildings within the district, which will be based upon administrative recommendations. The administrative recommendation shall take into account current and projected enrollments in light of physical, fiscal, and human resources projected within the district. Insofar as possible, any numerical factor will be building or attendance center specific.
2. Class size, program capacity, and building capacity restrictions are necessary in order to allow room in schools for students who may move into the assigned school attendance area or in the case of special education programs, students who may be identified as needing special education services or who may move in as students in need of special education. The approval of an open enrollment request may not result in exceeding the established student to teacher ratio or program capacity. The capacity listed for grade level student to teacher ratio indicates district averages for open enrollment purposes only. Actual class sizes may be above these ratios because of students living in the assigned school attendance area.
 - a) Kindergarten through Grade Three 22
 - b) Grade Four and Grade Five 24
 - c) Grade Six through Grade Eight 26
 - d) Grade Nine through Grade Twelve-High School open enrollment students may select from courses available at the time of registration.
 - e) Special Education program capacity is based on the type of program.

1. Kindergarten through Grade 12 – resource room case manager limits are set at 15 students
 2. Kindergarten through Grade 12 – self contained case manager limits are set at 5 students
 3. Kindergarten through Grade 12 – speech therapy total service provider limits are set at 35 students
 4. Kindergarten through Grade 12 – occupational therapy total service provider limits are 35, physical therapy total service provider limits are set at 10
 5. A student in need of special education or special education and related services will be declined for open enrollment if the IEP requires services which exceed these identified limits in #1-4 above or requires additional staffing or programs not in place at the time of application.
3. Nonresident student open enrollment applications to attend school within the District will be reviewed and acted upon in the order in which they are received. However, if the application is a sibling of a student accepted into and currently enrolled in the District, that student’s application shall take priority over all other applications.
 4. If two or more nonresident students from the same family, residing in the same household, request open enrollment into the District, all requests from that family must be either approved or denied and the District shall not deny an application if doing so would result in children from the same household enrolling in different school district. However, if the District cannot provide an appropriate education for a child in need of special education or special education and related services, the District may deny that child’s application for open enrollment.
 5. The board may deny applications for any of the following reasons:
 - (a) The applicant is under a suspension or expulsion;
 - (b) The applicant has been convicted of possession, use, or distribution of any controlled substance, including marijuana and is under suspension pursuant to SDCL 13-32-43;
 - (c) The applicant has been convicted of a weapons charge relating to the schools and is under suspension pursuant to SDCL 13-32-43.
 - (d) If misrepresentation of information by the applicant for transfer is determined to exist, before, or after the acceptance process or while the student is in attendance. If the student has previously been accepted, misrepresentation of information will result in revocation of the acceptance.

III. ACCEPTING NON-RESIDENT STUDENTS IN NEED OF SPECIAL EDUCATION

A request to transfer a student in need of special education or special education and related services may be granted only if, after a review of all relevant student education records and direct communication with the student’s parent or guardian and

representatives of the resident district, the Brookings School District special education administration determines that the District can provide an appropriate instructional program and facilities, including transportation, to meet the student's needs. If the request to transfer is granted, the Brookings School District is responsible for the provision of a free appropriate public education for the student in need of special education or special education and related services. If the student requires transportation as a related service, the Brookings School District shall provide or ensure the provision of transportation within the boundaries of the District.

A request to transfer a student in need of special education or special education and related services may be denied if the request would exceed program capacities set by the board, pursuant to SDCL 13-28-42.1 and 13-28-44 or if the Brookings School District cannot provide an appropriate instructional program and facilities, including transportation, to meet the student's needs.

If the Brookings School District confirms, based upon the records review and communications with the student's parent or guardian and representatives of the Brookings School District, that it can provide an appropriate instructional program and facilities, including transportation, if necessary, to meet the needs of the student, it may proceed with the open enrollment process (see § 13-28-421).

If the Brookings School District is not able to make confirmation of an appropriate instructional program and facilities to meet the needs of the student, the Brookings School District shall initiate an individual education program team meeting consisting of representatives from both the resident and nonresident districts to determine whether the Brookings School District can provide an appropriate instructional program, facilities, and transportation, if necessary. After the determination is made, the Brookings School District will proceed accordingly with regards to accepting or declining the student for open enrollment.

If the Brookings School District cannot meet the provisions of SDCL 13-28-42.1 for the child in need of special education or special education and related services, the Brookings School District may deny that child's application for open enrollment. If two or more children from a family residing in the same household, one of which needs special education and/or related services and both of which are eligible for kindergarten through 12th grade, may open enroll only if pursuant to SDCL 13-28-42.1, the Brookings School District can provide an appropriate instructional program and facilities, including transportation, for the child in need of special education or special education and related services.

IV. APPEAL OF DENIED REQUESTS

Appeals from board action under the 1997 Open Enrollment Act can be made under SDCL Chapter 13-46 and the court will conduct a *de novo** review. The time for appeal under SDCL Chapter 13-46 is within ninety (90) days from the date of decision.

*To make a new decision.

Legal References: SDCL 13-13-10.1 (Definition of terms)

SDCL 13-15-8.1 (Interstate agreements to establish tuition rates)
SDCL 13-15-9 (Interstate assignment of students on reciprocal basis)
SDCL 13-15-11 (Contracts between districts for joint facilities)
SDCL 13-15-21 (Enrollment in adjoining school districts in Minnesota)
SDCL 13-15-21.1 (Reciprocity required for enrolling in Minn sch dist)
SDCL 13-15-23 (Transportation for commuting between SD & MN)
SDCL 13-15-24 (Resident district responsible for tuition in MN school)
SDCL 13-28 (School attendance privileges and tuition)
SDCL 13-32-4.3 (Effect of suspension or expulsion on enrollment)
SDCL 13-32-9 (Suspension for controlled substances violation)
SDCL 13-46 (Appeals in school matters)

Cross References: IGBA: Programs for Handicapped Children
JECC: Assignment of Students to Schools
LB: Relation with Other Schools and School Districts

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