

2023 Kansas Statutes

72-3123. School attendance for nonresident students; determination of capacity by the school district; application for open seats; priorities for acceptance; children who are homeless; tuition and fees prohibited; limitations on transfer students; transportation not required; reporting; audits. (a) Beginning in school year 2024-2025, any child of school age pursuant to K.S.A. 72-3118, and amendments thereto, may attend a school operated by a school district where such child does not reside if such school district has open seats as determined pursuant to this section.

(b) The board of education of any school district shall permit nonresident students to enroll in and attend the schools of the district if such school district has open seats as determined pursuant to this section.

(c) Each school district shall determine capacity in each school of the school district for the following school year as follows:

(1) For kindergarten and grades one through eight, the classroom student-teacher ratio in each grade level; and

(2) for grades nine through 12, the student-teacher ratio for each school building or program in each school building, including, but not limited to, advanced placement or international baccalaureate programs.

(d) (1) On or before May 1 of each year, each school board shall determine for each grade level in each school building of the school district for the next succeeding school year the:

(A) Capacity as determined pursuant to subsection (c);

(B) number of students expected to attend school in the school district; and

(C) number of open seats available to nonresident students.

(2) On or before June 1 of each year, each school district shall publish on such school district's website the number of open seats available to nonresident students in each grade level for each school building of the school district for the next succeeding school year.

(3) From June 1 through June 30, each school district shall accept applications from nonresident students. Applications shall be on a form and in a manner determined by the school district.

(4) If the number of applications for a grade level in a school building is less than the number of available seats for such grade level in such school building, the nonresident students shall be accepted for enrollment and attendance at such school district. If the number of applications for a grade level in a school building is greater than the number of available seats for such grade level in such school building, the school district shall randomly select nonresident students using a confidential lottery process. Such process shall be completed on or before July 15 of each year.

(5) The school district shall provide to the parent or person acting as parent of a nonresident student who was not accepted for or denied enrollment at such school district the reason for the nonacceptance or denial and an explanation of the nonresident student selection process.

(e) (1) Subject to capacity, school districts shall give priority to any sibling of a nonresident student who was accepted to enroll in and attend such school district. Priority shall be given when the nonresident student is first accepted and, if necessary, at any other time the school district considers transfer applications. Any such sibling shall not be subject to the open seat lottery.

(2) Subject to capacity, school districts shall give priority to any nonresident student who is a military student as defined in K.S.A. 72-5139, and amendments thereto. Priority shall be given when the military student is first accepted and, if necessary, at any other time the school district considers transfer applications. Any such military student shall not be subject to the open seat lottery.

(3) Any child who is in the custody of the department for children and families and who is living in the home of a nonresident student who transfers may attend school in the receiving school district.

(4) Any nonresident student who has a parent or person acting as parent employed by a school district shall be permitted to enroll in and attend such school district as if the student is a resident of the school district. Any such student shall not be subject

to the open-seat lottery established pursuant to subsection (d) when enrolling in and attending the school district where the parent or person acting as parent is employed.

(5) Any child who is experiencing homelessness shall be permitted to enroll in and attend the school district of origin or the school district of residence.

(f) A school district shall not:

(1) Charge tuition or fees to any nonresident student who transfers to such school district pursuant to this section except fees that are otherwise charged to every student enrolled in and attending school in the district; or

(2) accept or deny a nonresident student transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.

(g) A nonresident student who has been accepted for enrollment and attendance at a receiving school district shall be permitted to continue such enrollment and attendance in such school district until such student graduates from high school, unless such student is no longer in good standing. A receiving school district may deem a nonresident student as not in good standing in accordance with such school district's nonresident transfer policy. Prior to making any determination to deem a nonresident student as not in good standing, a district shall consider a student's status as a homeless child and the resulting factors of homelessness on such student's standing.

(h) A student may always enroll at any time in the school district where such student resides.

(i) Except for a child in the custody of the department for children and families or a child who is experiencing homelessness, a nonresident student shall not transfer more than once per school year to one or more receiving school districts pursuant to the provisions of this section.

(j) A receiving school district shall not be required to provide transportation to nonresident students. If space is available on school district transportation vehicles, a school district may provide nonresident students an in-district bus stop where transportation may be provided by such school district to and from such bus stop and the school for such nonresident students. A school district shall ensure that transportation for nonresident homeless students is provided comparably to that of housed students.

(k) Each school district board of education shall submit to the state department of education the school district's policy adopted pursuant to K.S.A. 2023 Supp. 72-3126, and amendments thereto, the number of nonresident student transfers approved and denied by such board in each grade level and whether the denials were based on capacity or in accordance with the policy adopted pursuant to K.S.A. 2023 Supp. 72-3126, and amendments thereto. The state department of education shall collect and report such data on such department's website and make such data available to the legislative division of post audit.

(l) (1) Each year, the state department of education, as part of the department's enrollment audit, shall audit the nonresident student capacity and enrollment.

(2) In calendar year 2027, the legislative post audit committee shall direct the legislative division of post audit to conduct an audit of nonresident student transfers pursuant to this section. Such audit shall be reported to the legislative post audit committee on or before January 15, 2028, and subsequently presented to the house standing committee on K-12 education budget and the senate standing committee on education, or any successor committees.

(m) Nothing in this section shall be construed to exempt any nonresident student who transfers to a receiving school district pursuant to this section from the policies and requirements of the activities association referred to in K.S.A. 72-7114, and amendments thereto.

(n) The provisions of this section shall not apply to any school located on a military installation as defined in K.S.A. 72-8268, and amendments thereto.

History: L. 1978, ch. 284, § 1; L. 1984, ch. 261, § 4; L. 1993, ch. 264, § 1; L. 2023, ch. 98, § 9; June 8.