Mt. Diablo USD

Board Policy
Intradistrict Open Enrollment

BP 5116.1
Students

The Governing Board desires to provide options that meet the diverse needs, potential, and interests of district students.

To that end, the Board shall annually review enrollment options for students.   (Education Code 48980(k))

The Board shall annually determine the enrollment capacity of each district school.   (Education Code 35160.5(b)(2)(B))

The district shall not provide transportation outside the school's attendance area for Intradistrict Transfer students.

The district shall employ a random, unbiased process for considering enrollment applications where the number of applications is in excess of the spaces remaining to reach school capacity.   Capacity will be determined by using information from the district's Annual Facility Plan.   This process shall prohibit an evaluation of whether any student should be enrolled based on his or her academic or athletic performance.   (Education Code 35160.5 (b)(2)(B))

The following principles are exceptions to the random, unbiased selection process:

1.   No student who currently resides in the attendance area of a school shall be displaced by students transferring from outside the attendance area.   (Education Code 35160.5 (b)(2)(C))

2.   The district retains the authority to maintain appropriate racial and ethnic balance among district schools.   (Education Code 35160.5 (b)(2)(A))

3.   The district may employ entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants.   (Education Code 35160.5 (b)(2)(B))

4.   The district retains the right to assign a student to a school or program if the student requires a legally mandated program or accommodation that is available at the school such as a special education or bilingual program.

5.   The district retains the right to assign a student to a school for disciplinary reasons or for the protection of the health and safety of that student or other students.   (Education Code 35160.5 (b)(3)(A))

The Governing Board desires to provide enrollment options that meet the diverse needs and interests of district students and parents/guardians, while also balancing enrollment in order to maximize the efficient use of district facilities. The Superintendent or designee shall establish procedures for the selection and transfer of students among district schools in accordance with law, Board policy, and administrative regulation.

(cf. 5117 - Interdistrict Attendance)

The parents/guardians of any student who resides within district boundaries may apply to enroll their child in any district school, regardless of the location of residence within the district. (Education Code 35160.5)

(cf. 5111.1 - District Residency)
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

Enrollment Priorities

No student currently residing within a school's attendance area shall be displaced by another student transferring from outside the attendance area. (Education Code 35160.5)

(cf. 5116 - School Attendance Boundaries)

The Superintendent or designee shall grant priority to any district student to attend another district school outside of his/her attendance area as follows:

1.   Any student enrolled in a district school that has been identified on the state's Open Enrollment List.   (Education Code 48354)

(cf. 5118 - Open Enrollment Act Transfers)

2.   Any student enrolled in a district school receiving Title I funds that has been identified for program improvement (PI), corrective action, or restructuring. (20 USC 6316)

(cf. 0420.4 - Charter Schools)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 6171 - Title I Programs)

3.   Any student enrolled in a district school designated by the California Department of Education as "persistently dangerous." (20 USC 7912; 5 CCR 11992)

(cf. 0450 - Comprehensive Safety Plan)

4.   Any student who is a victim of a violent crime while on school grounds. (20 USC 7912)

5.   Upon a finding that special circumstances exist that might be harmful or dangerous to the student in the current attendance area.   Special circumstances, include, but are not limited to, threats of bodily harm or threats to the emotional stability of the student.

To grant priority under these circumstances, the Superintendent or designee must have received either: (Education Code 35160.5)

        a.   A written statement from a representative of an appropriate state or local agency, such as a law enforcement official, social worker, or a properly licensed or registered professional, such as a psychiatrist, psychologist, or marriage and family therapist

b.   A court order, including a temporary restraining order and injunction

6.   Any sibling of a student already in attendance in that school.

7.   Any student whose parent/guardian is assigned to that school as his/her primary place of employment.

The transfer may be revoked if the student fails to demonstrate good attendance, satisfactory behavior and/or satisfactory academic progress.

Application and Selection Process

In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, applications for intradistrict open enrollment shall be submitted between October 15 to January 15 of the school year preceding the school year for which the transfer is requested.

The Superintendent or designee shall calculate each school's capacity in a nonarbitrary manner using student enrollment and available space.   (Education Code 35160.5)

Except for priorities listed above, the Director, Student Services shall use a random, unbiased selection process to determine who shall be admitted whenever the school receives admission requests that are in excess of the school's capacity.   (Education Code 35160.5)

Enrollment decisions shall not be based on a student's academic or athletic performance, except that existing entrance criteria for specialized schools or programs may be used provided that the criteria are uniformly applied to all applicants. Academic performance may be used to determine eligibility for, or placement in, programs for gifted and talented students. (Education Code 35160.5)

(cf. 6172 - Gifted and Talented Student Program)

Transportation

Except as required by 20 USC 6316 for transfers out of Title I PI schools, the district shall not be obligated to provide transportation for students who attend school outside their attendance area.

(cf. 3250 - Transportation Fees)
(cf. 3540 - Transportation)

Legal Reference:
EDUCATION CODE
200   Prohibition against discrimination
35160.5   District policies; rules and regulations
35291   Rules
35351   Assignment of students to particular schools

46600-46611 Interdistrict attendance agreements
48200   Compulsory attendance
48204 Residency requirements for school attendance
48300-48316 Student attendance alternatives, school district of choice program
48350-48361   Open Enrollment Act
48980   Notice at beginning of term
CODE OF REGULATIONS, TITLE 5
11992-11994   Definition of persistently dangerous schools
UNITED STATES CODE, TITLE 20
6316   Transfers from program improvement schools
7912   Transfers from persistently dangerous schools
CODE OF FEDERAL REGULATIONS, TITLE 34
200.36   Dissemination of information
200.37   Notice of program improvement status, option to transfer
200.39   Program improvement, transfer option
200.42   Corrective action, transfer option
200.43   Restructuring, transfer option
200.44   Public school choice, program improvement schools
200.48   Transportation funding for public school choice
COURT DECISIONS
Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275
ATTORNEY GENERAL OPINIONS
85 Ops.Cal.Atty.Gen. 95 (2002)

Management Resources:
U.S. DEPARTMENT OF EDUCATION NONREGULATORY GUIDANCE
Public School Choice, January 2009
Unsafe School Choice Option, May 2004
WEB SITES
CSBA: http://www.csba.org
California Department of Education, Unsafe School Choice Option:
http://www.cde.ca.gov/ls/ss/se/usco.asp
U.S. Department of Education, No Child Left Behind: http://www.nclb.gov

Policy MT. DIABLO UNIFIED SCHOOL DISTRICT
approved: February, 2010
revised: October 12, 2015