



# Oregon Department of Education

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## Interdistrict Transfer Frequently Asked Questions

Oregon currently has four methods of transfer: interdistrict transfer, open enrollment, tuition, and contract. This FAQ addresses interdistrict transfer as established by ORS 339.133(5)(a) and amended by HB 2747 (2013) and HB 4007 (2014).

**1. When do the amendments to interdistrict transfer take effect?**

The HB 2747 amendments and the HB 4077 amendments apply to students seeking transfer for the 2014-15 school year.

**2. Does HB 4007 affect the status of students who are already admitted through interdistrict transfer?**

HB 4007 provides that a school district that administers a lottery for the 2014-15 school year may give priority to nonresident students who had received consent for interdistrict transfer for the 2013-14 school year. If a district intends to administer a lottery and give priority to students who received an interdistrict transfer for the 2013-14 school year, the district may ask on the initial application form whether the student currently has a transfer into the district.

In addition, the student seeking renewal is not required to obtain consent from the resident district.

### RECEIVING DISTRICTS – DECIDING WHETHER TO ACCEPT TRANSFERS AND HOW MANY TO ACCEPT

**3. Who determines the number of students a district/school will accept through interdistrict transfer?**

The local school district by board action determines the number of students it can accept from outside the district using interdistrict transfer. Districts may decide to admit no students, admit any student who requests a transfer, or set a limit on the number of students that will be admitted. And districts may limit the number of transfers accepted by school or grade level. For example, any of the following would be appropriate:

- District A may decide not to accept any interdistrict transfer students;
- District B may decide to accept all students who apply for interdistrict transfer
- District C may decide to accept 20 interdistrict transfer students at Smith High School;
- District D may decide to accept 10 students in fourth grade, 10 students in fifth grade, and 10 students in sixth grade.

If a district chooses to limit the number of students accepted through interdistrict transfer, the district school board must make that determination by an annual date to be established by the district school board.

**4. Can districts revise the number of transfer students to be accepted?**

Yes. The district may revise that number of transfer students to be accepted either on the annual date established by the board (see question 3 above) or at any time during the year so long as there are no applications for transfer pending.

**5. How do districts determine the number of students they will accept?**

Districts should establish district process as to how the number of students will be determined. Districts might consider current enrollment, future enrollment projections, budget, staffing, district goals, and local district needs.

**6. May districts open one grade or one school?**

Yes. A district may decide to accept students in one grade or one school.

**7. May districts open one program?**

Yes. A district may decide to accept students in one program.

**8. How does the process work if the district has a separate enrollment process for magnet or focus schools?**

Once a student has been admitted through interdistrict transfer, the student would be eligible to apply for the focus or magnet program through the same process available for resident students.

**9. What is the timeline for processing transfer requests?**

Nothing in HB 2747 or the OAR governing Interdistrict transfer agreements specifies a timeline for processing transfer requests. Districts should establish their own timelines. Districts may choose to set a deadline for transfer requests and consider all requests at one time, or districts may choose to process requests on a rolling basis. If districts decide to process requests on a rolling basis and not hold a lottery, the preference for students who had been granted transfers in 2013-14 does not apply (see question 2 above).

**10. May a district refuse to accept transfer students?**

Yes, a district may decide not to accept any students through interdistrict transfer.

**11. May a district that has accepted transfers via interdistrict transfer for a particular school year change its policy in subsequent years?**

Yes, the district may revise the number of transfers to be granted in a given year either annually at the date established by the district school board or at any time during the year provided that there are no requests for transfer currently pending.

**12. What information may a district request of a student seeking transfer?**

A district may only request the student's name, contact information (email, phone number, and mailing address), date of birth, grade level, and information related to expulsions as outlined in ORS 339.115(8).

If the district intends to hold a lottery for a limited number of slots (see question 22 below), the district may request information about siblings who are currently enrolled in the receiving district.

If a district intends to hold a lottery and give priority to students who received an interdistrict transfer for the 2013-14 school year (see question 2 above), the district may ask on the initial application form whether the student currently has a transfer into the district.

HB 2747 does not allow districts to request information about siblings but does allow districts to give priority for siblings if the district holds a lottery. ODE acknowledges this creates a conflict for districts. Because the legislation intended to allow districts to give priority to siblings, ODE is interpreting the statute to allow districts to ask about siblings at the time of initial application. Districts may ask if the student has a sibling enrolled in the receiving district, the name of the sibling, and the school where the sibling is enrolled.

**13. Is there any information related to a student that a district is prohibited from requiring a student to provide prior to giving consent to the student to transfer to the district?**

A district may not request or require the following information:

- Information about the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or
- Academic records, including behavioral records or eligibility for or participation in a talented and gifted program, or special education and related services.

- 14. Does this prohibition include the name of the school district in which the student resides?**  
Yes. The prohibition on requesting or requiring information about the residence of a student also includes information about the school district in which the student resides. However, after the district has given consent for the student to attend school in the district the district may request this information from the student.
- 15. When can a district request the student’s academic records, behavior records, and/or IEP?**  
A district may request a student’s academic records, behavior records, and/or IEP after the transfer request has been granted and the transfer agreement has been signed by the resident district, nonresident district, and parent/guardian.
- 16. Is there a sample Interdistrict Transfer Agreement?**  
Yes, the State Board has adopted a sample Interdistrict Transfer Agreement and it is available through ODE. Please contact Emily Nazarov ([emily.nazarov@ode.state.or.us](mailto:emily.nazarov@ode.state.or.us); 503-947-5637) or Andrea Morgan ([andrea.morgan@ode.state.or.us](mailto:andrea.morgan@ode.state.or.us); 503-947-5772) to obtain a copy.
- 17. May the district offer or require tours and interviews for students seeking transfer?**  
Districts may not require students seeking transfer to participate in facilities tours or interviews. Nothing prevents a district from granting a tour when requested by a student seeking transfer.
- 18. Can a district determine the length of time for which consent to transfer is given?**  
Yes, a receiving districts may determine the length of time for which a transfer is granted. However, the length of time must be applied consistently to all students who are granted transfers. The sending district does not determine the length of time for which consent is given.
- 19. Once a student receives an interdistrict transfer, must the district renew the transfer?**  
Receiving districts have discretion to set the length of time for which consent to transfer is given. The length of time must be applied consistently to all students who are granted transfers. A receiving district may choose to renew Interdistrict Transfer Agreements that are for a term that is less than the student’s entire school career. For renewal, the student needs to obtain consent from the receiving district only.
- 20. Does the resident district need to sign off on a renewal request?**  
No. The consent of the resident district is not required for renewal and nothing in the legislation requires that the resident district sign off on a renewal.

- 21. Is there an exception to the interdistrict transfer rules for hardship cases?**  
Yes, but it is limited. A district may request or obtain additional information and give consent to transfer to a student without following the processes set forth in HB 2747 in the event of an emergency to protect the health, safety, or welfare of the student. Examples of an emergency would include sexual assault, threats against a student’s life, or threats of imminent harm.
- 22. Is there an exception for students who move during the school year?**  
If a student’s legal residence changes during the school year, and the student wishes to remain enrolled in the district for the remainder of the school year, the school board must give consent to allow the student to complete the school year.
- 23. Can a district offer transfers just to certain kinds of students?**  
No. Districts may not deny consent or establish any terms of consent based on a student’s race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.
- 24. May a district only accept students from a particular geographic area such as another school district?**  
No. Districts may not deny consent or establish any terms of consent based on a student’s race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.
- 25. What if a district has more applicants for interdistrict transfer than the number of students they’ve announced they will accept?**  
If a district receives more requests than the announced number of students that will be granted transfers, the district must conduct an equitable lottery to select the students that will be granted transfers. The process may give priority to students who have siblings currently enrolled in the school district. For the 2014-15 school year, districts may also give priority to nonresident students who had received consent for interdistrict transfer for the 2013-14 school year.
- 26. What does an “equitable lottery process” look like?**  
An “equitable lottery process” provides a single random selection process that provides all interested students with equal opportunity to attend the school. One possible method would be for a district to place all names of applicants into an opaque container and have an objective party (perhaps a community member) draw names one by one to fill open transfer positions.

**27. Can districts give priority to siblings?**

Prioritizing siblings for enrollment is a matter for local district policy. If a district receives more requests than the announced number of students that will be granted transfers, and the district holds a lottery process to determine which students will be granted transfers (see question 24 above), the process may give priority to students who have siblings currently enrolled in a school of the school district.

**28. How can you give priority to siblings given the limited amount of information the district is allowed to request from students?**

HB 2747 does not allow districts to request information about siblings but does allow districts to give priority for siblings. ODE acknowledges this creates a conflict for districts. Because the legislation intended to allow districts to give priority to siblings, ODE is interpreting the statute to allow districts to ask about siblings at the time of initial application. Districts may ask if the student has a sibling enrolled in the receiving district, the name of the sibling, and the school where sibling is enrolled.

**29. Can the district give priority to children of staff?**

No. Nothing in HB 2747 or HB 4007 allows districts to give priority to children of district staff.

**30. Can a district set up a behavior contract or attendance requirements with a student who transfers in through interdistrict transfer?**

Yes, so long as the contract or requirements are applied consistently to all similarly situated students who are granted transfers and do not have the effect of discriminating against a class of persons. For example, a behavior contract for a ninth grade student must be the same as the behavior contracts for other ninth grade students, but may be different from a behavior contract for an elementary student.

**31. Can a district impose academic conditions on a student who transfers in through interdistrict transfer?**

This may be possible so long as the conditions are applied consistently, except as allowed under federal or state law, to all students who are granted transfers and do not have the effect of discriminating against a class of persons. Districts should consult with legal counsel before imposing academic conditions.

**32. Is the receiving district required to provide transportation to interdistrict transfer students?**

The bill does not change current pupil transportation laws. The receiving district does not have responsibility to provide transportation beyond school district boundaries. If the district chooses to provide transportation beyond district boundaries, the district may apply for reimbursement from the state school fund transportation grant.

If a student chooses to transfer through interdistrict transfer, the resident district no longer has responsibility to provide transportation.

## **RESIDENT (RELEASING) DISTRICTS – DECIDING WHETHER TO RELEASE TRANSFERS AND HOW MANY TO RELEASE**

### **33. Can the resident district stop a student from transferring to a nonresident district?**

Yes. A resident district may prohibit a student from transferring to another district through interdistrict transfer. Both the sending and receiving districts must agree to the transfer.

Resident districts may release no students, release all students, or set a limit on the number of students who will be released. And districts may limit the number of students released by grade level or school. For example, any of the following would be appropriate:

- District A may decide not to release any interdistrict transfer students;
- District B may decide to release all students who apply for interdistrict transfer
- District C may decide to release 20 interdistrict transfer students from Smith High School;
- District D may decide to release 10 students in fourth grade, 10 students in fifth grade, and 10 students in sixth grade.

The decision to deny consent must be applied evenly and not on a case by case basis. Best practice would be to establish through board action whether all requests for consent are granted, no requests for consent are granted, or requests are granted when the requests meet an established set of parameters.

Resident districts may not deny transfer requests based on a student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

A resident district may not stop a student from renewing an interdistrict transfer. For renewal, the student needs to obtain consent from the receiving district only.

### **34. Can the resident district determine the length of time for which consent to transfer is given?**

No, the resident/releasing district does not determine the length of time for which consent is given. Only the receiving district may determine the length of time for which a transfer is granted.

**35. Is a resident district required to have a policy governing its decision to approve or deny requests to transfer out of district?**

HB 2742 does not specifically require districts to establish a policy. However, best practice would be to establish a policy or take board action that outlines when a district will approve or deny a request to transfer out of district.

**36. Is there an exception to the interdistrict rules for hardship cases?**

Yes, but it is limited. A district may request or obtain additional information and give consent to transfer to a student without following the processes set forth in HB 2747 in the event of an emergency to protect the health, safety, or welfare of the student. Examples of an emergency would include sexual assault, threats against a student's life, or threats of imminent harm.

**37. Is there an exception for students who move during the school year?**

If a student's legal residence changes during the school year, and the student wished to remain enrolled in the district for the remainder of the school year, the school board must give consent to allow the student to complete the school year.

**38. What are the resident district's responsibilities to a student once the student has transferred out through interdistrict transfer?**

Once a student has enrolled in the receiving district, the resident district has no responsibility for that student. If the student decides to leave the receiving district and re-enroll in the resident district, the resident district then becomes responsible for providing a free and appropriate public education ("FAPE") for that student.

**SPECIAL EDUCATION**

**39. Which district is responsible for FAPE?**

Under current law, the resident district maintains responsibility for FAPE. However, the Oregon Department of Education has proposed an amendment to OAR 581-021-0019 that would make FAPE the responsibility of the nonresident district. The State Board of Education will vote on the proposed amendment in June 2014.

**40. Can the resident district be billed for special education services?**

Yes. Under current law, the resident district maintains responsibility for providing FAPE. If the receiving district provides special education services, the receiving district may bill the resident district for the cost of those services.

If the State Board adopts a rule amendment in June 2014, then the receiving district may no longer bill for special education services after the 2013-14 school year.

**41. What happens if a district accepts a student through interdistrict transfer and then learns that the student has special education needs that the district is not able to meet?**

Once a district has accepted a student through interdistrict transfer, the district must provide special education services to that student. The responsibility to provide services is no different than it would be for a resident student.

**42. Can a district apply to the high cost disabilities fund for reimbursement for costs associated with providing a student with special education and related services if the student is attending school in the district via interdistrict transfer?**

Yes. If the State Board adopts a rule amendments in June 2014, then the receiving district may apply to for reimbursement from the high cost disabilities fund with the same requirements and restrictions that apply to other resident students who receive special education and related services.

**43. For students who are receiving special education services, who is responsible for transportation?**

The bill does not change current special education law or pupil transportation laws. The initial decision to transfer to a different district is the parents', subject to district policies, and is not an IEP decision. The receiving district does not have responsibility to provide transportation beyond school district boundaries. Once inside the attending district, a student's IEP may require that a district provide additional transportation as a related service. It is best practice for a receiving district to review the IEPs of all incoming interdistrict transfer students to determine how the district will provide FAPE to the student.

If a student chooses to transfer through interdistrict transfer, the resident district no longer has responsibility to provide transportation.

**ACTIVITIES**

**44. How do interdistrict transfers affect sports participation?**

Sports participation issues are the responsibility of Oregon School Activities Association (OSAA). OSAA has issued the following position statement regarding open enrollment: <http://www.osba.org/~media/Files/Resources/Board%20Operations/Policy%20hot%20topic%20materials/osaa%20memo%20hb3681.ashx>. Districts cannot accept or decline students for transfers on the basis of sports ability.

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