OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

Memo

To	Board of Education
From	Nina Senn, Vice President Marion McWilliams, General Counsel
Board Meeting Date	September 13, 2017
Subject	Discussion of Potential Amendment to Board Policy – Open Enrollment – BP 5116.1

Action Requested	Discussion of Potential Amendment to Board Policy – Open Enrollment – BP 5116.1
Background	The Board has identified various areas of work relating to enrollment, feeder patterns, attendance boundaries, quality school portfolio, and school facilities, including school capacity. These proposed amendments begin that work by clarifying and updating the existing policy. Periodically, modifications to board policies are recommended to align with changes in law or recommended best practices. The proposed modifications to the board policies reflect the District's standards.
Discussion	In order to ensure that our policies are current and clear, it is important for us to review and update our policies. The proposed changes are based generally upon the California School Board Association's recommended model, with clarifying language added for the District's practices. The modifications have been reviewed for legal compliance by the General Counsel. This policy clarifies the District's priorities for enrollment (Oakland resident, neighborhood boundaries, sibling, safety) and proposes adding a priority for employees whose students attend the same or an adjacent school. The changes to the policy are shown on the attachment. The proposed deletions are indicated with blue strikeouts. The recommended additions are shown in red.
Recommendation	Discussion of Potential Amendment to Board Policy – Open Enrollment – BP 5116.1
Fiscal Impact	No direct funding implications
Attachments	Discussion of Potential Amendment to Board Policy – Open Enrollment – BP 5116.1

Draft for Discussion Purposes
Board Policy
BP 5116.1
Students

I.   Open Enrollment

The Governing Board desires to provide enrollment options that meet the diverse needs and interests of District students and parents/guardians, while also maximizing 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. The Board shall annually review this policy. (Education Code 35160.5, 48980)

The Superintendent or designee shall calculate each school's capacity in a non-arbitrary manner using student enrollment and available space. (Education Code 35160.5) In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, applications for Open Enrollment shall be submitted timely within the District's Open Enrollment Options window which is typically between early December and mid-January of the school year preceding the school year for which the transfer is requested and can be found on the District's website at https://www.ousd.org/enroll or by calling the District's Welcome Center at at 510-273-1600.

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)

II.   Neighborhood School Priority

Attendance boundaries are established by the Governing Board. A family's permanent residence falls within the geographic boundaries of an elementary, middle and high school within the District, and these schools are referred to as the "neighborhood schools" for that location. The neighborhood schools for a particular residential address can be found at https://www.ousd.org/schoolfinder or by calling the District's Welcome Center at 510-273-1600. No student shall be displaced from his or her neighborhood school by another student transferring from outside the neighborhood school/ attendance boundary area. (Education Code 35160.5) (cf. 5116 - School Attendance Boundaries)

III.   Intra-District Transfers Outside Neighborhood Schools

The parents/guardians of any student who resides within District boundaries may apply to enroll their child in any District school, regardless of which schools are identified as their "neighborhood schools" or the location of their residence within the district. (Education Code 35160.5) The Superintendent or designee shall grant priority to any District student to attend another District school outside of his/her attendance area as follows:

A. **FAMILY PRIORITIES**

1.   In recognition of the Governing Board's stated policy goal of keeping families and siblings together, siblings of students who are enrolled in the school and who will be enrolled in the school concurrently with their sibling in the same school the following year. (Education Code 35160.5)

2.   Any student whose parent/guardian is assigned to aschool, school physically adjacent or school on the same campus as his/her primary place of employment

B.   **SAFETY TRANSFERS**

These priorities ensure that students may transfer out of their neighborhood school to a different District-school under the circumstances listed below. Although a family's school preferences will be considered in selecting a school, these priorities do not guarantee a particular school.

1.   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)
2.   Any student who is a victim of a violent crime while on school grounds (20 USC 7912)
3.   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. Any such student may transfer to a district school that is at capacity and otherwise closed to transfers. 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, including, but not necessarily limited to, a law enforcement official, social worker, or a properly licensed or registered professional such as a psychiatrist, psychologist, or marriage and family therapist or (b.) A court order, including a temporary restraining order and injunction

C. **Prioritization In High-Demand Schools**

In some circumstances, the number of students seeking to enroll in a school will exceed the available space in the school. Students with a parent/guardian with a permanent residence within the City of Oakland shall have priority over non-residents.

IV.   Lottery

All other enrollment requests into District schools shall be subject to a lottery. Except for priorities listed above (neighborhood, family, safety transfer ensuring an alternative placement, Oakland residency), the Superintendent or designee 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)

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
6311 State plans
7912 Transfers from persistently dangerous schools
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:
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Public School Choice FAQs
Every Student Succeeds Act 2016-17 School Year Transition Plan, April 2016
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions, rev. May 4, 2016
Unsafe School Choice Option, May 2004
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education: http://www.ed.gov

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Draft for Discussion Purposes
Board Policy

BP 5116.1
Students

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~~(cf. 5117 - Interdistrict Attendance)~~
~~(cf. 5117.1 - Interdistrict Attendance Agreements)~~
~~(cf. 5117.2 - Alternative Interdistrict Attendance Program)~~

The Superintendent or designee shall calculate each school's capacity in a non-arbitrary manner using student enrollment and available space. (Education Code 35160.5) In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, applications for Open Enrollment shall be submitted timely within the District's Open Enrollment Options window which is typically between early December and mid-January of the school year preceding the school year for which the transfer is requested and can be found on the District's website at https://www.ousd.org/enroll or by calling the District's Welcome Center at at 510-273-1600.

~~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. 5111.11 - Residency of Students with Caregiver)~~
~~(cf. 5111.12 - Residency Based on Parent/Guardian Employment)~~
~~(cf. 5111.13 - Residency for Homeless Children)~~

~~The Board shall annually review this policy. (Education Code 35160.5, 48980)~~

~~Enrollment Priorities~~

~~Priority for attendance outside a student's attendance area shall be given as follows:~~

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)

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neighborhood school by another student transferring from outside the neighborhood school/ attendance boundary area. (Education Code 35160.5)

(cf. 5116 - School Attendance Boundaries)

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Enrollment Priorities - Exception – School Year 2008-09

For the 2008-09 school year, all families within any District overcrowded attendance area not placed at their home school will be redirected through the District Open Enrollment process to their next closest neighborhood school. (Board Resolution 0708-0135, 12/19/2007)

Transportation

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

However, upon request, the Superintendent or designee may authorize transportation contingent upon available space and funds. Priority for any such transportation shall be based on demonstrated financial need.

(cf. 3250 - Transportation Fees)
(cf. 3540 - Transportation)
2.   Any student who is a victim of a violent crime while on school grounds (20 USC 7912)
3.   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. Any such student may transfer to a district school that is at capacity and otherwise closed to transfers. 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, including, but not necessarily limited to, a law enforcement official, social worker, or a properly licensed or registered professional such as a psychiatrist, psychologist, or marriage and family therapist or (b.) A court order, including a temporary restraining order and injunction

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UNITED STATES CODE, TITLE 20
6316 Transfers from program improvement schools
6311 State plans
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)

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U.S. DEPARTMENT OF EDUCATION GUIDANCEPUBLICATIONS
Public School Choice, December 4, 2002
Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions, rev. May 4, 2016
Unsafe School Choice Option, July 23, 2002May 2004

WEB SITES
CSBA: http://www.csba.org
CDECalifornia Department of Education: http://www.cde.ca.gov
U.S. Department of Education: http://www.ed.gov

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