



## 2022 South Dakota Legislature

# House Bill 1207

Introduced by: **Representative Hansen**

1 **An Act to clarify standards for the consideration of open enrollment applications.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 13-28-44 be AMENDED:**

4 **13-28-44.** Each ~~The board of a~~ school district ~~by November 1, 1997,~~ shall by  
5 resolution adopt ~~relevant~~ standards for the acceptance ~~and rejection~~ or denial of an  
6 application to enroll a student in the district under ~~the provisions of §§ 13-28-40 to 13-~~  
7 ~~28-47, inclusive.~~ The board shall ~~adopt standards through official board action,~~ set them  
8 forth in writing, and make them the standards available to any individual upon receiving  
9 an oral or written request. ~~Standards shall be limited to~~

10 The standards may address only the capacity of a program, class, grade level, and  
11 schoolbuilding ~~operated by the board,~~ and the pupil/teacher student-teacher ratio.  
12 ~~Discrimination~~ The standards may not preclude applicants who require accommodations,  
13 modifications, or other services, as set forth in an individualized education program or  
14 services plan.

15 In considering an application, a board may not discriminate based on an applicant's  
16 race, gender, religious affiliation, or disability ~~is prohibited.~~

17 If two or more children from a family residing in the same household ~~must would~~  
18 have to enroll in different school districts, as the result of a board's denial of an application  
19 to transfer from a resident district or to enroll in a nonresident district under ~~the provisions~~  
20 ~~of §§ 13-28-40 to 13-28-47, inclusive,~~ neither the resident board nor the nonresident  
21 board may deny the application.

22 However, two or more children from a family residing in the same household who  
23 are eligible for kindergarten through twelfth grade may open enroll only if, pursuant to  
24 § 13-28-42.1, the nonresident district can provide an appropriate instructional program  
25 and facilities, including transportation, for the child in need of special education or special  
26 education and related services. If the nonresident district cannot meet the provisions of

1       § 13-28-42.1 for the child in need of special education or special education and related  
2 services, the nonresident district may deny that child's application for open enrollment.

3             The decision of a ~~local schoolboard~~ regarding a student's application for open  
4 enrollment or a request to return to the resident district under the provisions of §§ 13-  
5 28-40 to 13-28-47, inclusive, is subject to de novo appeal under ~~the provisions of chapter~~  
6 13-46. The Department of Education ~~may~~shall promulgate rules, pursuant to chapter 1-  
7 26, specifying procedural and administrative requirements for the implementation of the  
8 open enrollment program and related transfers and enrollments under the provisions of  
9 §§ 13-28-40 to 13-28-47, inclusive.