WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION

Tony Evers, PhD, State Superintendent

December 10, 2015

To: District Administrators and Virtual Charter School Administrators

From: Brian Pahnke, Assistant State Superintendent
Division for Finance and Management

Subject: Requirements for Open Enrolled Students attending Virtual Charter Schools

This letter contains information for school districts planning to open a new virtual charter school in the 2016-17 school year (or planning significant changes to an existing virtual charter school) and the required steps for the new school to be listed on the 2016-17 open enrollment application.

Under Wisconsin statutes, open enrolled students must attend a school located in the nonresident school district. In 2008, the Wisconsin Court of Appeals affirmed that "located" means the school must be within the physical boundaries of the school district. Since that decision, the legislature enacted 2007 Wisconsin Act 222 that defines a "virtual charter school," specifies that a virtual charter school is located in the authorizing school district and requires that a virtual charter school must meet certain provisions that are not required of non-virtual charter schools.

The effect of the state statutes and the Appeals Court decision is to require all open enrolled students, except those enrolled in virtual charter schools, to physically attend school in a school located in the nonresident school district on the days that school is in session. Only students open enrolled in virtual charter schools, that meet the statutory definition and virtual charter school requirements, are excused from daily physical attendance at a school located in the nonresident school district.

It is important we properly administer the open enrollment application process and make accurate open enrollment payments. Therefore, we are requesting virtual charter school administrators to identify a school as a virtual charter school that meets the current statutory definition and statutory requirements. Unless the school is so identified, the school will not be listed on the open enrollment application as a virtual charter school and no open enrollment payments may be made to a school district for a student's assignment to a school that does not require daily physical attendance in the school district.

Enclosed is a form to be signed by the school district administrator and the administrator of any new virtual charter school and any virtual charter school that has undergone significant changes (including changes to grade level). If the form is received by the department on or before January 31, 2016, the virtual charter school will be listed on the open enrollment application for the 2016-17 school year (the application period is February 1 through April 29, 2016). **This form does not need to be resubmitted for existing virtual charter schools that have not had significant changes since the last assurances were filed with the department.**

The following are some questions and answers concerning this topic:

Q -1. Why is the department requesting school districts to identify a school as a virtual charter school?

A-1. There is no statutory definition for any online or virtual school or program that is not a "virtual charter school." However, there are a number of online programs and components that are not (and do not intend to be) virtual charter schools, or are not charter schools, or may not be schools at all, or may not meet all of the requirements in 2007 Wisconsin Act 222. It is important for parents to be assured that they are applying for open enrollment to a virtual charter school that meets statutory requirements, for charter school operators to understand the requirements that must be met in order to accept students under open enrollment, and for school districts to be assured that they will be properly paid for open enrollment students.

We are also aware of schools that want to accept open enrolled students that may not meet the statutory requirements to be a virtual charter school as well as schools that may meet the requirements to be a virtual charter school but do not identify themselves as virtual charter schools. It is important for all charter school administrators to understand what is required in order to accept open enrolled students and to properly identify virtual charter schools if they wish to accept open enrolled students.

Q-2. If a virtual or online school does not want to identify itself as a virtual charter school, is it required to do so?

A-2. No, there is no statutory requirement that a school identify itself as a virtual charter school. However, it may not then accept open enrolled students unless it requires students to physically attend within the geographic boundaries of the district each day school is in session.

Q-3. Does this mean that a virtual charter school can refuse to take open enrolled students?

A-3. School districts must accept students for whom they have space in the district. School boards are authorized to assign open enrolled students to schools within the district. The charter school contract may include provisions concerning the assignment of open enrolled students to the charter school.

Q-4. Must a school district provide this information in order to provide online or virtual courses to resident students?

A-4. This identification is only requested of virtual charter schools that intend to accept students under open enrollment.

Q-5. Is a school district prohibited from allowing open enrolled students to take online courses in a school that is not a virtual charter school?

A-5. No. However, the school must require students to physically attend school within the school

district during the days and hours that school is in session.

Q-6. If a virtual charter school does not provide this information before January 31, 2016, is it prohibited from accepting open enrolled students?

A-6. No. However, if the school is not identified as a virtual charter school by January 31, 2016, it will not be listed as a virtual charter school on the open enrollment application and students will not be able to request the school during the application period. Once the school provides the information to the department, the district may assign open enrolled students to the school.

Q-7. Must virtual charter schools provide this information annually?

A-7. Once a school has identified itself as a virtual charter school, it will not be asked to do so annually.

If you have any additional questions concerning this information, please contact Lisa Geraghty at (608) 266-5728, or elisabeth.geraghty@dpi.wi.gov.

Relevant Citations: Wis. Stats. § 115.001 (16), 118.19 (13), 118.40 (8), 118.51 (2), 121.02 (1) (a), 121.02 (1) (f) 2., Johnson et al v. Burmaster 2008 WI APP 4, December 5, 2007

BP: elg
Enclosure: School District Virtual Charter School Identification Form