

# Birth up to Kindergarten Enrollment, Legislative Changes

**During the 2023 legislative session, changes were made to the Open Enrollment and Parent Choice statutes that impact non-resident district enrollment of a child with a disability who is not yet enrolled in kindergarten.**

What has changed?

1. **Open Enrollment** (Minnesota Statutes 2023, section 124D.03 subdivision 3):
   * **Before**: A preschool aged child with a disability open enrolled in a non-resident district remained open enrolled upon entrance to kindergarten unless the parent enrolled the child elsewhere.
   * **Now**: A preschool aged child with a disability open enrolled in a non-resident district may be required to open enroll for kindergarten.
2. **Parent Choice** (Minnesota Statutes 2023, section 125A.13):
   * **Before**: A student with a disability, not yet enrolled in Kindergarten could receive their special education and related services in a non-resident district through a tuition agreement.
   * **Now**: A student with a disability, not yet enrolled in Kindergarten who is participating in, a Head Start or other community preschool or childcare setting in a nonresident district may enroll in a non-resident district in the same manner as a resident student (Minnesota Statutes 2023, section 125A.13 School of Parents’ Choice).

What Does This Mean?

Both provisions require a determination of eligibility before seeking enrollment in a non-resident district. Because both options for enrollment in the nonresident district require an existing determination of eligibility, it is the responsibility of the child’s resident district to complete the evaluation process and document eligibility in an IFSP for Part C or an evaluation report for Part B. If a child who is open-enrolled in Grade VPK/SRP is subsequently suspected of being a child with a disability, the district the child is open-enrolled in must complete the evaluation and document the eligibility determination.

Both provisions allow for enrollment in the non-resident district to “sunset” or end at kindergarten. This sunset provision does not apply to a child who is open enrolled in Grade VPK/SRP.

However, the non-resident district may elect to allow the child’s enrollment status to continue without completing another application. We recommend that districts create policies around this election which must be non-discriminatory and in writing.

Open enrollment continues to require the use of the [state application form](https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=mde059556&RevisionSelectionMethod=latestReleased&Rendition=primary) and process. There are separate forms for ECSE open-enrollment and VPK/SRP open enrollment.

School of Parents’ Choice requires enrollment in a Head Start or licensed child care setting in a nonresident district. There is no standard set for how parents must demonstrate enrollment in a community preschool or childcare setting. We recommend a written policy for this process.