

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

United States of America,	)	C.A. No. 66-cv-00598-HFF
	)	
Plaintiff,	)	AND
	)	
vs.	)	C.A. No. 70-cv-00563-HFF
	)	
Calhoun County School District One,	)	
	)	
Defendant.	)	
	)	
	)	<b>CONSENT ORDER</b>
United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Calhoun County School District Two,	)	
	)	
Defendant.	)	

The School District of Calhoun County, South Carolina (the "District"), is preparing to begin the 2009-2010 school year, which will be the first year the District operates the Sandy Run School as a K-8 school, and the first year the District occupies its new St. Matthews K-8 School, both as provided or noted in prior orders of this Court. The change in schools operated by the District and the change in the District's attendance zones have made it advisable to revise the Transfer Policy last approved by this Court in its order filed August 1, 2005.

The District and the United States have agreed upon a revised Transfer Policy (attached hereto as Exhibit 1), which the District's Board of Trustees has adopted subject to this Court's approval. The parties desire the new Transfer Policy to take effect immediately.

Having reviewed the materials and being fully advised in the premises:

1. The Transfer Policy attached hereto replaces the Transfer Policy affixed to the order entered August 1, 2005, for purposes of the 2009-2010 school year and beyond.

2. The prior orders of this Court remain in effect, except as modified herein.

AND IT IS SO ORDERED.

s/Henry F. Floyd  
United States District Judge

July 27, 2009

WE CONSENT:

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**SCHOOL DISTRICT OF CALHOUN COUNTY**  
**TRANSFER POLICY**

The following policy shall apply to the intra-district and inter-district transfer of students. This policy is intended to make clear to administrators, faculty, staff, parents and students the limited circumstances under which a student can exercise an intra-district or inter-district transfer. The basic rule is that every student in the district is required to attend the school in his or her attendance zone. This enables the District to effectively monitor attendance obligations, to properly allocate resources for present and future use, and to monitor and meet its desegregation obligations.

Students may attend a school other than that to which they are assigned only by following the provisions of this policy. Part I of the policy addresses intra-district transfers; Part II addresses inter-district transfers; Part III addresses transfer review procedures; Part IV addresses residency verification; Part V addresses notice requirements; Part VI addresses training requirements; Part VII addresses reporting requirements; and Part VIII addresses the policy's effective date and application.

**I. INTRA-DISTRICT TRANSFERS**

Intra-district transfers occur when a student living in one attendance area attends a school in another attendance area within the same district.

**A. General Rule**

Every student in the District is required to attend the school serving the attendance zone in which he or she resides, unless he/she is eligible for enrollment in another school or district as a matter of law, or otherwise qualifies for a transfer. A student who moves out of an attendance zone with less than a semester remaining in the school year may complete the school year at his/ her prior school. Students who move during the school year at other times must attend a school in his/her new attendance zone. The District does not provide transportation in support of the transfers permitted in this policy, unless otherwise noted or if required by law.

**B. Types of Transfers**

Intra-district transfers are limited to the following categories:

- 1) Transfers in Furtherance of Desegregation;
- 2) Full Time Employee transfers;
- 3) Substantial hardship transfers;
4. Legal Mandate Enrollment, Assignment, and Transfer
- 5) Montessori Program "Grandfathering" Transfer
- 6) Transfer in Lieu of Suspension or Expulsion
- 7) Self-Transport Grandfathering Transfers

1. Transfers in Furtherance of Desegregation

A transfer will be permitted if the transfer will have the effect of moving the racial composition of both the sending and receiving schools closer to the district wide racial composition. Students who are granted transfers pursuant to this sub-section shall be able to attend the school he or she is transferring to through the highest grade level offered by that school, and the District will provide said students with transportation to the receiving school.

2. Full Time<sup>1</sup> Employee Transfers

A Full Time Employee Transfer may be approved if:

a) the student's parent is employed by the District on a full-time basis; and b) the student resides with the employee parent and the employee parent has custody of the student. Students who transfer under this sub-section may attend only the school where the parent is employed. If the parent is employed at a school that does not serve the grade level of the student, the student may attend only the school closest to the parent's place of employment that serves the student's grade level. A parent must re-apply for an employee transfer every year.

3. Substantial Hardship Transfer

A substantial hardship transfer may be granted if the student or student's family demonstrates a substantial hardship, and the hardship is unique to the student and his or her family. A substantial hardship transfer is meant to provide for student transfers in unique situations where the student does not qualify for a transfer under any other provision of this policy, but has suffered a substantial hardship, such as a family crisis or medical condition that necessitates transferring the student to a new school. Problems shared by many related to raising a family do not constitute an adequate basis for granting a hardship transfer. In addition, preferences to attend a certain school based on family, friends, curriculum, or location do not qualify as substantial hardships. The following examples illustrate the type of circumstances in which a substantial hardship transfer may be granted: incarceration of a parent; terminal illness or death of a parent; natural disaster; domestic abuse or neglect affecting the student; or medical problems suffered by the student that renders it necessary for a student to attend a school other than his or her zoned school.

Every substantial hardship application must be supported by detailed documentation. Parents must complete the substantial hardship portion of the transfer application, attach a notarized statement detailing the hardship, and attach supporting documentation, such as a letter(s) of support from either a doctor or other authority who can confirm the hardship, describe the condition, explain why it requires transferring the student to another school, and state how the condition will be accommodated by the new school. The Superintendent or his or her designee will make a good-faith inquiry into the merits of every hardship request. Transfers granted pursuant to the hardship exception will be valid only for one school year. Those transfer students who wish to continue to attend the new school must reapply for a substantial hardship

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<sup>1</sup> As used in this policy, the phrases "full time employment" and "full-time basis" and similar phrases, mean employed for the majority of time in each working day, pursuant to an employment contract for at least one-hundred-eighty working days in a school year, or employed for the majority of time in each working day in non-contracted employment in a position that is established on the basis of at least one-hundred-eighty working days in the fiscal year (July 1 to June 30).

transfer each year, and submit to the District current information documenting their hardship and the necessity of the transfer.

4. *Legal Mandate Enrollment, Assignment, and Transfer*

A student may transfer, or may be assigned, to a school other than the school serving the attendance zone in which he or she resides when the Superintendent determines that the District is required by law to make the assignment or permit the transfer, the assignment or transfer is for the purpose of providing the student with his or her educational rights under law, and the failure to make the assignment or transfer would jeopardize the District's compliance with applicable laws and regulations. Examples of such transfers or assignments are:

- a. McKinney-Vento Act (e.g., "school of origin"/ "best interest" assignments).
- b. Student placements made pursuant to an Individualized Education Program ("IEP") under the Individuals with Disabilities Education Act ("IDEA"), or any other assignment (e.g., "stay-put") dictated by the provisions of the IDEA.
- c. Assignments as a result of an individualized § 504 Accommodation Plan.

5. *Montessori Program "Grandfathering" Transfer*

Students who have been enrolled in the Montessori Program at Guinyard Elementary School for at least ten weeks as of the conclusion of the 2008-2009 school year, and who are zoned to attend the Sandy Run K-8 School based on the District's 2009-2010 attendance plan, may apply to transfer to and attend the St. Matthews K-8 School so long as (a) the student continues uninterrupted enrollment and progress in the Montessori Program at St. Matthews K-8 School and (b) until such time as a Montessori Program for the student's grade level is established at the Sandy Run K-8 School.

Any sibling(s) of a student enrolled in the St. Matthews Montessori Program pursuant to this provision may apply to transfer to, and attend, the St. Matthews K-8 School for as long as the sibling enrolled in the Montessori Program at St. Matthews is eligible for, and attends, the Montessori Program at the St. Matthews K-8 School.

6. *Transfer in Lieu of Suspension or Expulsion*

Pursuant to South Carolina Code § 59-63-250, the Board of Trustees or the Superintendent may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by the Superintendent under this provision I(6) to the Board.

7. *Self-Transport Grandfathering Transfers*

Any student who was zoned to attend Guinyard Elementary School or who attended John Ford Middle School in the 2008-2009 school year and who is now zoned to attend the Sandy Run K-8 School (based on the District's 2009-2010 attendance plan) may apply to transfer to and attend the St. Matthews K-8 School, provided that (a) the parent(s) and/or guardian(s) of the student provided transportation for the student to and from school on a daily basis during the 2008-2009 school year; (b) the parent(s) and/or guardian(s) of the student will continue to provide transportation for the student to and from the St. Matthews K-8 School on a daily basis; and (c)

the St. Matthews K-8 School has available sufficient physical and program capacity to receive the student.

If a student is permitted to transfer pursuant to this provision, the transferring student may attend the St. Matthews K-8 School until such time as (a) s/he is no longer grade-eligible for the St. Matthews School academic program, or (b) the parent(s) and/or guardian(s) of the student no longer provides transportation for the student to the St. Matthews K-8 School.

Any sibling(s) of a student attending the St. Matthews K-8 School pursuant to this provision may also apply to transfer to, and attend, the St. Matthews K-8 School for as long as (a) that sibling is grade-eligible for the St. Matthews School academic program, and (b) the parent(s) and/or guardian(s) of the sibling provide transportation for the sibling to the St. Matthews K-8 School.

Application for transfer pursuant to this subsection must be received by the District no later than August 17, 2009. After that date, no new applications will be accepted, except for sibling applications as set forth in this provision.

## **II. INTER-DISTRICT TRANSFERS**

Inter-district transfers are student transfers between the Calhoun County School District and other school districts.

### **A. Transfers to Calhoun County**

1. The District may permit students from other school districts to attend its schools provided the following conditions are met:

- a. The District has received the payment of tuition and a valid release from the sending school system; and,
- b. The transfer will not have the cumulative effect of reducing desegregation in either district or reinforcing the dual school system.

2. Full-time employees living outside the Calhoun County School District who work in the Calhoun County schools shall not be required to meet the criteria listed in Section II.A.1., above, in order to enroll their children in the Calhoun County schools. The attendance of children of District employees is subject to the requirements set forth in Section I.B.2, above.

### **B. Transfers from Calhoun County**

The Calhoun County School District may permit transfers from its District to other districts provided one of the following conditions is satisfied:

- (1) The student resides with a parent/guardian in Calhoun County who is a full-time employee in another school district;

(2) The student has a compelling medical need that cannot be accommodated in Calhoun County. In this circumstance, a parent/guardian must attach a notarized statement to the transfer application detailing the medical need, and must include supporting documentation and a letter of support from a medical doctor who can confirm the medical need, describe the condition, explain why it requires a transfer of the student to another district, and state how the condition will be accommodated by the new school. The Superintendent or his or her designee will make a good-faith inquiry into the merits of every request. Transfers granted pursuant to this provision shall only be granted for one year. If the medical need continues, the parent/guardian should re-apply for an inter-district transfer in accordance with the requirements of this subsection;

(3) The transfer will not have the cumulative effect of reducing desegregation in either district or reinforcing the dual school system;

(4) As provided in S.C. Code § 59-63-425, "a high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate by a court of competent jurisdiction may transfer with the consent of the student's school district to another high school within or out of the district within thirty school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers." The Superintendent may grant transfers to another school district, and may accept transferring students from other districts, pursuant to the statute and in his discretion.

To be a valid inter-district transfer, the student and parent/guardian must receive a release from the Calhoun County School District.

### **C. Notice**

Prior to the beginning of each school year, the District will issue notices to school districts that have accepted inter-district transfers from Calhoun County schools in the last five years, as well as all neighboring school districts, and request that these districts notify the District of any students attending school in those districts whose residence appears to be within the Calhoun County School District. The Calhoun County School District will then verify that these students are attending school in compliance with this policy. If a student's attendance is found not to be in compliance with this policy, the District shall revoke the inter-district transfer.

## **III. TRANSFER REVIEW PROCEDURES**

The Superintendent shall be responsible for reporting, processing, and administration of the transfer procedure. The Superintendent or his or her designee shall prepare all necessary forms to carry out this policy. All transfer requests will be submitted to the Superintendent for review and decision. If space is not available at a school for all approvable transfers, the District shall allocate spaces based on the following priority system:

### **1. Legal Mandate Transfers**



2. Transfers in Furtherance of Desegregation
3. Substantial Hardship Transfers
4. Montessori Program "Grandfathering" Transfer
5. Self-Transport Grandfathering Transfers
6. Intra-District Employee Transfers
7. Transfers in Lieu of Suspension or Expulsion
8. Additive Inter-District Transfers

The Superintendent shall make the final decision on whether the transfer request should be granted. All questions related to transfers and residency requirements from other school personnel, parents, students, and community members should be directed to the Superintendent. The Superintendent may designate another central office administrator to make recommendations to the Superintendent on whether a particular transfer request should be approved; however, the Superintendent will make the final determination regarding the transfer request.

#### **IV. RESIDENCY VERIFICATION**

It is essential that parents/guardians of students be able to demonstrate their residency in their child's school zone. To verify residency, a student's parent/guardian or other responsible person or entity (pursuant to S.C. Code § 59-63-31) must provide the school district with copies of at least two of the following eight items when registering a student:

1. Real property tax records, including but not limited to assessment notices, tax bills, paid receipts, notice of approval of legal residence status of the real property;
2. Current mortgage documents or property deed;
3. Lease, other agreement, or rent receipt with residential address;
4. Current utility bill showing residential address;
5. Voter registration information;
6. Recent Federal or State income tax documents;
7. Property tax records pertaining to personal property (*e.g.*, vehicles);
8. Verification of qualification and residence of the student by the Department of Social Services or Department of Juvenile Justice.

The District may require and/or accept any other document or evidence (including the District's own investigation results) which is found by the District to be reliable to establish the student's residency for attendance zone purposes.

Enrollment pursuant to South Carolina Code § 59-63-31(c) (pertaining to any student who resides with an adult resident of the school district other than the student's parent/guardian) must be supported by an affidavit in the form established in South Carolina Code § 59-63-32.

In addition to the foregoing, parent(s)/legal guardian(s) must sign a notarized statement attesting that the address they provide on the enrollment form is the one where the student spends the majority of his or her nights and weekends. The statement also should indicate to the parent(s)/legal guardian(s) that they must inform school officials of any change in address within



thirty (30) days of the changes, and that a student will be removed from school if it becomes known that the student is not living at the primary address specified on the enrollment form.

## **V. NOTICE REQUIREMENTS**

A. The District shall send a copy of this Transfer Policy to the school boards of all neighboring South Carolina school districts in the month prior to the opening of schools.

B. The District shall post this Transfer Policy on its website and indicate that a copy of the policy is available for review at any District school and at the central office.

C. This Transfer Policy shall be included in each school's information handbook that is given to all students annually.

If any student is believed to be enrolled in an attendance zone in the Calhoun County School District contrary to the provisions set forth in this policy, the District shall immediately notify the students and his or her parent(s), legal guardian(s), or other caregiver. The notification shall state that the student's parent(s), legal guardian(s), or other caregiver shall have a period of thirty (30) days from the date of the notice to provide verification of residency as required in Section IV, above, or other evidence that the student is in compliance with the requirements set forth in this policy. If the required verification is not provided to the Superintendent within that period, the District shall immediately require the student to enroll in the school in the attendance zone of residence.

## **VI. REPORTING REQUIREMENTS**

The District shall provide with its annual October 15 report to the Department of Justice a listing of the total number of students who have requested intra-district transfers, indicating for each such request: the student's grade level, race or ethnicity, sending school (school which student is zoned to attend), receiving school (school to which transfer is sought), reason for the transfer request, and whether the District granted the transfer. The District shall provide the same information for inter-district transfers. The District shall also provide the racial composition of the District and each school before the transfers were granted (based on the prior year's 135-day attendance report) and after the transfers were granted.

## **VII. EFFECTIVE DATE AND APPLICATION**

The provisions of this policy are effective as of the 2009-10 school year.