



## Public School Choice

### 1. Which schools must provide public school choice?

A school district must provide public school choice to students enrolled in schools within the district that have been designated for school improvement, corrective action or restructuring. Such schools have failed to meet adequately yearly progress for two or more consecutive years.

### 2. May a district deny students the option to transfer to certain schools due to a lack of capacity, including health and safety issues like overcrowding?

No. A district must either create additional capacity or provide other choices of schools. Districts must find ways to provide public school choice consistent with their obligation to provide a healthy and safe learning environment.

### 3. If a district does not have the physical capacity to offer transfers to all eligible students, how can it create additional capacity?

The U.S. Department of Education suggests utilizing the following range of options to increase capacity:

- Reconfiguring, as new classrooms, space in receiving schools that is currently not being used for instruction;
- Expanding space in receiving schools, such as by reallocating portable classrooms within the district;
- Redrawing the district's attendance zones, if insufficient capacity is available within

the existing zones within which students would ordinarily select schools;

- Creating satellite divisions of receiving schools—that is, classrooms that are under the supervision of the receiving school principal and whose teachers are part of the school faculty but that are located in neighboring buildings;
- Creating new, distinct schools, with separate faculty, within the physical sites of schools identified for improvement;
- Encouraging the creation of new charter schools within the district;
- Developing distance learning programs, or entering into cooperative agreements with “virtual schools”;
- Reshaping long-range capital construction and renovation plans in order to ensure that schools likely to receive new students have additional space;
- Modifying either the school calendar or the school day, such as through “shift” or “track” scheduling, in order to expand capacity; and
- Easing capacity by initiating inter-district choice programs with neighboring districts or even by establishing programs through which local private schools can absorb some of the district's students.

### 4. What if the state has a law limiting class size?

State laws that mandate specific student-teacher ratios may not be used to deny public school choice transfer requests. Districts must provide the option to transfer unless state law prohibits choice through restrictions on public school assignments or the transfer of students from one public school to another.

**5. What if the teacher’s union contract has specific provisions on class size?**

In most circumstances, the district’s public school choice plan must conform to existing contract provisions.

**6. When does the public school choice program start?**

The school district must provide choice by the first day of the school year following the identification of any schools within the district for school improvement, corrective action or restructuring. The requirement to offer public school choice began in the 2002-03 school year for schools that had failed to make adequate yearly progress for two years under the previous law.

**7. If the district does not receive from the state, prior to the start of the school year, student achievement results or the list of schools identified for improvement, corrective action or restructuring, when must it offer public school choice?**

If a district does not receive the information in time to offer choice before the beginning of the school year, it must make choice available as quickly as possible, so that parents can exercise choice and students can enter new schools before the school year gets well under way.

**8. For how long does the district have to provide public school choice?**

The district must continue to provide public school choice to students in a school designated for improvement, corrective action or restructuring until the designated school is removed from the school improvement list by making adequate yearly progress for two consecutive years.

**9. What happens to the students who have transferred if their original school is taken off the school improvement list?**

Students who have chosen to transfer to other public schools may continue to attend these schools until they reach the top grade of that school, but the district is no longer responsible for paying the transportation costs.

**10. Which students are eligible for public school choice?**

All students enrolled in a school designated for school improvement, corrective action or restructuring have the option to transfer to another public school in the district.

**11. How will students and parents know they are eligible for public school choice?**

The district is required to send an annual notice to parents of children enrolled in a school identified for improvement, corrective action or restructuring, explaining what the identification means. This notice must also explain that parents have the option to transfer their child to another public school. The notice must be written in a language the parents can understand, if practicable.

**12. From which schools can parents and students choose?**

Parents can choose from other public schools within the district, including charter schools, that are not identified for school improvement and are not “persistently dangerous” as determined by the state. Parents cannot choose to send their children to private schools under this provision.

**13. May a “virtual school” (a school that offers instruction through distance learning technology) be among the schools to which eligible students are offered the opportunity to transfer?**

Yes, as long as that school is a public elementary or secondary school (as defined in state law) and has not been identified for school improvement, corrective action or restructuring. If the “virtual school” is not operated by the district, the district may enter into a cooperative agreement with the school so that its students can enroll.

**14. Are districts required to provide parents with the option to transfer to more than one public school?**

Yes, if there is more than one school in the district that is not identified for school improvement or as “persistently dangerous.”

**15. What if there are no other schools in the district to choose from?**

The district must, to the extent practicable, establish a cooperative agreement with other school districts in the area, allowing students to transfer to schools in those districts. Or, the district instead may offer supplemental services to eligible students in schools in their first year of school improvement. Parents must still be notified that their child is eligible for choice, but that no choices are currently available.

**16. Can parents choose to transfer their child to another school AND obtain supplemental educational services for them?**

No.

**17. Who is responsible for providing transportation to the public school choice school?**

The district is responsible for providing the transportation or paying its costs. The district must spend up to 20 percent of its Title I funds on a combination of transportation for public school choice and supplemental educational services.

**18. Is the district responsible for paying for the transportation costs if a student attends a public school in another school district?**

Yes.

**19. What if the funds for public school choice transportation are limited?**

All students must have the option to transfer, but districts are required to serve the lowest-achieving low-income students first. A district may not be able to pay the transportation costs for all students who wish to transfer.

**21. Must students with disabilities be offered their choice of the same schools as nondisabled students?**

No. In determining the choices available to such students, the district should match the abilities and needs of a student with disabilities with those schools that have the ability to provide the student a free appropriate public education.

**22. Does the movement of a student with disabilities to a school of choice constitute a “change of placement” under the IDEA?**

A change in the location of delivery of services, in and of itself, does not constitute a “change of placement” as defined under the

IDEA. The IDEA statute and implementing regulations contain specific requirements regarding “change of placement” provisions, and districts must comply with these requirements when they are triggered.

**23. What if a student who attends a school in school improvement has been assigned to that school for disciplinary reasons?**

A district may deny or limit the choice option for a student assigned to a particular school due to violent or criminal behavior, or for disciplinary reasons sufficiently serious to justify placement in a particular learning environment.

**24. Can specialty schools, such as schools for the performing arts, continue to use academic entrance requirements when identifying transfer options for students?**

Yes. For example, students wishing to transfer to a fine arts magnet school or a school for gifted students would still need to meet the requirements to attend those schools.

**25. What if the district is subject to a desegregation plan?**

The district is not exempt from providing public school choice, even if it is subject to a court-ordered or Federal/State agency desegregation plan. However, in developing its public school choice program, the district may take into account the requirements of a desegregation plan.

**26. What if the desegregation plan is a court-ordered plan or a plan entered into with the Education Department’s Office for Civil Rights?**

The district needs to seek court approval for amendments to the desegregation plan that permit a transfer option for students enrolled in schools identified for school improvement, corrective action or restructuring. If the district is unable to secure changes to the plan that permit a transfer option, the district will be out of compliance with Title I. If that occurs, it should notify the state and the U.S. Department of Education of its request to the court and of the court’s decision.