

No Child Left Behind

Public School Choice

Action Guide for Parents and Communities

PUBLIC
EDUCATION
NETWORK

Public involvement. Public education. Public benefit.

Title I, Section 1111 (h)(4)(F); (h)(4)

Section 1116 (b) (1) E & F; (5)(A); (7)(C) (i); (b)(5)(B); (b)(7); (b)(8)

Regulations: Primary Citation 222.44

Other Citations: Section 200.32 and 200.33; 200.43

200.37; 200.39; 200.43; 200.44

Non-Regulatory Guidance: February 6, 2004

Public School Transfer Provisions

School districts are required to provide ALL parents the opportunity of transferring their children to another public school if:

- Their current school, funded with Title I money, has been identified for school improvement, corrective action, or restructuring; or
- The State has identified their school as persistently dangerous or if their child has been a victim of violent crime on school property.

Public School Transfer Elements Include:

- Timely notice given by the school district to parents that they are eligible for the transfer option;
- Lowest-achieving low-income children are to be given priority;
- Transportation to the new school provided by the school district through Title I dollars, although district dollars can also be used to supplement the effort;
- The school district must make choice options available to parents not later than the first day of the school year following the school year in which the school district administered the assessments that resulted in the school being identified as needing improvement, corrective action or restructuring. That means that a district should provide information to parents about their choice options well before the beginning of the school year.

Beginning with the 2002-2003 school year, school districts are required to offer choice to students enrolled in schools in the following categories:

- Schools that are in their first year of school improvement
- Schools that are in the second year of improvement
- Schools that are in corrective action
- Schools that are in restructuring (both planning year for restructuring and any implementation years)

Did You Know?

- That EVERY student enrolled in a Title I school that has been identified as 'in need of improvement' must have the opportunity to transfer to another school that has not been identified as needing improvement.

- That only children in Title I schools are eligible to transfer to another public school under NCLB if their current school fails to meet the state AYP requirements for two consecutive years (see AYP Action Brief).
- A school district may not use lack of capacity to deny students the option to transfer, but may take capacity into consideration in deciding which individual schools to make available for choice. If the district does not have sufficient capacity in its schools that are not identified for improvement (or persistently dangerous) to accommodate the demand for transfers, the district must create additional capacity or provide choice of other schools.
- NCLB supercedes all local laws and school district policies that may limit school choice and are inconsistent with requirements to provide school choice.
- Each school district makes the final decision on which schools students who wish to transfer attend.
- State or local school district class size policies cannot be used to prohibit parental choices.

Student Eligibility for Choice

All students enrolled in Title I schools identified for school improvement, corrective action, or restructuring are eligible to transfer to another public school (which may include a charter school) that is not in school improvement, even if that student meets the state AYP expectations or is not a low income student.

- A school district may not use lack of capacity to deny students the option to transfer, but may take capacity into consideration in deciding which individual schools to make available for choice. If the district does not have sufficient capacity in its schools that are not identified for improvement (or persistently dangerous) to accommodate the demand for transfers, the district must create additional capacity or provide choice of other schools
- The school district must offer more than one choice of schools to parents if more than one school meets the NCLB guidelines and criteria.
- Charter schools that fall within the boundaries of the school district, but not authorized by the school district, could be included in the transfer options with agreement of the individual charter school. (See Charter School Action Brief)
- In the case of a school that is a Title I targeted assistance school, all students in the school, not just those receiving Title I services, must have the opportunity to transfer.
- The ONLY exception applies in situations where there are no other schools in the district (or outside the district) to which the students can transfer (as may be the case in rural districts).
- A student who plans to attend a Title I school that offers choice provisions, but is not yet enrolled, may or may not be eligible to chose another school depending on the State and/or school district definition of when a student is officially enrolled. This may pertain to students planning to enter a school for the first time such as kindergartners, or students moving from another school, or those who have just moved into the school district.
- In some cases, a school district may have to give priority or rank order those students who are the lowest achieving from the lowest income families. Such instances may include circumstances when not all students can attend their first choice school or where a school district does not have sufficient funding to provide transportation to all of the students who wish to transfer. Students cannot be rank ordered on the basis of family income level,

because this would not give priority to the lowest achieving students.

- In determining the achievement ranking of students for prioritization purposes, a school district might allow all eligible students who receive less than a certain score on State assessments to change schools, or base determination on student grades, or on the scores students receive on other tests.
- Parents may select a “virtual school” (schools that offer instruction through distance learning technology) so long as that school has been defined as a public elementary and secondary school and has not been identified for school improvement.

AYP Data from the State

- Each state is responsible for providing student assessment and AYP results, as well as lists of schools identified for improvement, corrective action, and restructuring, to each school district in a timely manner so that school districts can, before the beginning of the new school year, notify parents that they may transfer their child to another school.
- Many states are NOT getting AYP results to districts in time to offer choice before the beginning of the school year. The district must offer choice once they get the data and school districts are advised by the US Department of Education not to wait until the following school year before offering choice.

Parent Communications about Choice

- Parents SHOULD be notified that their child is eligible for school choice well before the beginning of the school year. But in many school districts, parents are not receiving notification until well after the school year, or not at all. This may be due to states not notifying local school districts about state assessment results until the fall when children are already in school. It's also possible that school districts may not be informed or understand the requirements of the law, or school districts may ignore the requirements of NCLB.
- Although the school district can set the timelines for parents to make their decisions to choose another school, the district should allow enough time for parents to make an informed decision about selecting a school. Districts could establish various times during the year for transfer such as the beginning of the school year, the end of the first semester, or the spring of the previous school year.
- If there are no schools to which the child may transfer, parents must still be notified that their child's school is identified for improvement. In that case, the district is allowed to provide supplementary educational service for those students.
- Communications with parents must be in a comprehensive, easy-to-understand format, and to the extent practicable, in a language the parents can understand.
- At a minimum, the parental communication must include:
 - Notice that their child is eligible to attend another public school due to identification of the current school as in need of improvement;
 - Information that identifies each public school, which may include charter schools, that the parent can select;
 - Information on the academic achievement of the schools that the parents may select;
 - Information and explanation of why the choice of parents may be limited due to trans-

portation, availability of non low performing schools, or health and safety concerns. However, every student in a Title I low performing school must have the opportunity to chose another school;

- Districts must take into consideration parent preferences when choosing another school; and
- If all of the public schools within a school district are all identified as needing improvement, corrective action or restructuring, the school district must to the extent practicable, reach a cooperative agreement.

Special Education Students

- School districts must ensure that students with disabilities are provided the same protections that they otherwise would receive under the Individual with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Title II of the American's with Disabilities Act.
- A school to which a student transfers may elect to implement the IEP (individualized education program) developed by the prior school, or to convene an IEP team meeting and develop a new IEP plan in consultation with the parents.
- School districts are not required to offer students with disabilities the same choices of schools as it offers non-disabled students. The District should match the abilities and needs of a student with disabilities with those that have the ability to provide FAPE.
- A change of location of the delivery of services does not constitute a "change in placement" as defined by IDEA.

What Should Parents Be Aware of in Transferring Their Student?

When parents decide to choose another school for their child, they need to consider the following special circumstances that may limit their range of options and choices:

- The final decision on whether the parent receives their first choice of schools is up to each school district.
- If the child's current school is subject to both public school choice and supplemental educational services requirement, some parents, once they understand the transfer options, may elect to have their child remain in his or her original school and receive supplemental educational services.
- Parents that elect to choose another school cannot receive supplemental educational services, unless the school they chose is identified as 'needing improvement' AFTER they make the transfer and the school subsequently qualifies for offer supplemental education services and is in the second year of needs improvement, or if the school voluntarily provides supplementary education services when the school is in the first year of improvement.
- If the parent's choice school is identified as needing improvement after their child is enrolled, but their original school gets out of the improvement status, the parent has the right to choose another school or return to the original school. However, if the parent chooses another school, the district is not obligated to provide transportation.

- Issues that may limit parental choice is in school districts where:
 - ALL schools are in the needs improvement category, and there is no school that qualifies for school choice;
 - Transportation money has run out and the district must tell parents that free transportation will not be provided to the school that they chose to transfer their child to;
 - Schools are so remote from one another that choice is impracticable, such as in rural areas. The law is ambiguous about defining what is “remote” or too far away while still being considered a reasonable choice for parents;
 - All schools at a grade level are in school improvement or when the district has only a single school at that grade level;
 - Health and safety factors enter into a district’s decision to identify a school for choice;
 - There is not sufficient funding to provide transportation to all of the students who wish to transfer. In that case, the district may prioritize based on the lowest achieving of the low income students;
 - If a parent chooses another school not selected by the district as a transfer option, there is no requirement that Title I funds will follow the child to the new school. However, in subsequent years, the receiving school may become eligible for Title I funds if enough low-income students apply to the school;
 - If a child’s original school is no longer on the school improvement list, the school district is not required to provide transportation after the end of the school year. However, the child is allowed to stay in the choice school until the highest-grade level;
 - If a parent chooses a school within the school district’s definition of walking distance, the district is not obligated to pay for transportation;
 - When parents move from the original school’s attendance area, the school must allow students to finish the highest-grade level at the school of choice, but the district is no longer obligated to provide transportation;
 - Students who change schools are not required to remain in their choice school, but may return to their original school if parents decide it is in the best instructional interest of the child; and
 - A transportation zone system would be established where the district could decide to fully pay transportation costs for students attending choice schools within the zone, but only partially pay for costs if students chose a school outside of the zone.

Public School Choice Funding

NCLB requires that a school district spend an amount equal to 20 percent of its Title I, Part A allocation on a combination of the following:

- Choice related transportation
- Supplemental education services
- A combination of the above

However, guidance from the US Department of Education requires that an amount equal to 5 percent of the Title I, Part A allocation **MUST** be set aside for supplemental education services. This means that if a district is in danger of spending more than 15 percent of the allocation on

choice transportation, not all of the children who wish to choose may be provided transportation. In this case, the district will give priority to the lowest-achieving students from low-income families.

A school district may use other non-Title I resources from Federal, State, local and private sectors to meet the “equal to” provision of the law. For instance, a school district may already provide transportation services, in which case, the district may count toward the 20 percent requirement, the portion of its transportation costs that is attributable to providing choice to students exercising the Title I choice option.

Action Opportunities for Community Leaders

For NCLB public school choice to be meaningful, it is critical that the community and parents be involved, along with other stakeholders, in the development of the choice plan and that parents receive information in a timely fashion about their school choice options. Given that schools must communicate with parents in languages and formats they can understand, it is critical that community and parent leaders have open channels of communications so that they are equipped with the information they need to provide support to parents in Title I schools.

Most particularly, community leaders need to be informed about the NCLB choice provisions, the number of schools identified as being in the public school choice program, the district policy regarding choice and if it is fair and equitable. Community leaders should also know if parents are getting the supports they need to fully understand their choice option and the instructional consequences.

Community leaders should:

- Know the public school choice provisions of NCLB before the district is required to implement them.
- Determine if the district receives the academic assessment data from the state in a timeframe that provides parents adequate time to choose. Does the data allow school districts to make policy and procedural decisions about choice before the beginning of the school year? Does the local district receive state assessment data in a timeframe that allows parents the time to make decisions about choice?
- The district should be developing school improvement plans for Title I schools that are not meeting AYP for the first time. Research these plans to determine if they are in fact being developed and if community organizations and parents have had input. Ensure that what the district is implementing assures that the school(s) improve and do not advance to the second year of needs improvement, which automatically triggers the choice provisions.
- Offer your services and expertise in developing the school improvement plan. If the district has not developed a plan, encourage them to do so. Use the planning process as a community-building activity and involve the larger community in the plan’s development.
- Search information about those schools that have been identified as needing improvement, corrective action or restructuring. Determine if the district has developed a choice policy, and if community leaders and parents have been involved in the process.

- Make sure that parents are knowledgeable about the choice provisions, and what their rights are under the law. Organize community dialogues and town meetings to bring together parents of various language and ethnic groups to discuss critical educational and instructional issues. Include in that discussion ways in which families can stay in a low performing school and help to make it high performing.
- As you analyze the district's choice policy, does the policy and procedures address the following:
 - Does the district have space available for the number of students who are eligible to choose another public school? If not, what is the process by which the district will select which students are given permission to attend "choice" schools? Which schools are selected by the district to be the choice schools? What criteria were used to select these schools?
 - Do parents have more than one school from which to choose? Are parents allowed to choose any school in the district that has space and for which the student is qualified? Does the district assure diversity in "choice" schools and give all eligible parents equal access to those schools?
 - Do parents have the appropriate information they need to make an informed decision about the quality of the school—information on academic expectations, assessment measures, class size, teacher-student ratio, highly qualified teachers, and school safety?
 - Has the school system arranged or encouraged parents to visit the eligible choice schools, meet with the principal and teachers, and discuss school programs?
 - Do parents know the school district must provide transportation to the schools they choose?
- Check with the principal, teachers and parents in the school to determine how the community can support the parents in their understanding of the choice policy.
- Check with the principal, teachers and parents in the school to determine how the community can support the school to help take it off the 'needs improvement' list.
- Monitor the impact of choice on students who remain in the low performing schools. Will student departures drain resources from these schools? Will instructional services be reduced as a result of student departures?
- Work with the district in monitoring the impact of the district's choice program, the demographics of parents who make choices (are they all one race, income, gender, neighborhood), and the achievement progress of the students who transfer to assure that they are meeting the AYP expectations.
- Monitor the academic progress of the students whose parents do not choose.

Action Opportunities for Parent Leaders

For NCLB public school choice to be meaningful, it is critical that the following elements be reflected in both the school district and the individual Title I parent involvement policies:

- Parents collaborate with community based organizations to be involved in the development of the choice plan;
- Parent leaders assure that parents receive information in a timely fashion about the school choice options that they have;
- Parent organizations work with the school in developing communications with parents in lan-

- guages and formats parents can understand; and
- Community and parent leaders open channels of communications so that they are equipped with the information they need to provide support to parents in Title I schools that are identified as low performing, corrective action or restructuring schools or districts.

It is critical that parent leaders be informed about the NCLB choice provisions; the number of schools identified as being in the public school choice program; the elements of the school district policy regarding fairness and equitability; and assuring that parents are getting the support they need to fully understand their choice option and the instructional consequences.

Action opportunities for parent leaders:

- Know the public school choice provisions of NCLB, and inform parents in advance about the impact of choice provisions on their children BEFORE a school may be identified as being eligible for public school choice.
- Convene meetings for parents to explain the NCLB provisions, and what schools need to do to avoid NCLB school improvement sanctions. Organize community dialogues and town meetings to bring together parents of various language and ethnic groups to discuss critical educational and instructional issues. Include in that discussion ways in which families can stay in a low performing school and help to make it high performing.
- Parent leaders should make parents aware of when in the year the state provides the local school district with assessment data to determine if the school has made the AYP goals.
- The district should be developing school improvement plans for schools that are not meeting AYP for the first time. Parents should research to determine if the plans are being developed, if parents have been informed, if parents and community organizations have had input into the plans, and what the district is implementing to assure that the school(s) improve and do not advance to the second year of needs improvement, which automatically triggers the choice provisions.
- Determine if the district has developed a choice policy, and if parents and community leaders have been involved in the process. Ensure that the choice policy identifies key areas parents can use to evaluate the quality of their child's education: high-quality, committed teachers; small class size; a challenging environment with high academic standards; strong partnerships among parents, teachers, and students; and strong reading programs.
- As you analyze the district's choice policy, determine if the policy and procedures address the following:
 - Does the district have space available for the number of students who are eligible to choose another public school? If not, what is the process by which the district will select which students are given permission to attend "choice" schools? Which schools are selected by the district to be the choice schools? What criteria were used to select these schools?
 - Do parents have more than one school from which to choose? Are parents allowed to choose any school in the district that has space and for which the student is qualified? Does the district assure diversity in "choice" schools and give all eligible parents equal access to those schools?
 - Do parents have the appropriate information they need to make an informed decision about the quality of the school—information on academic expectations, assessment meas-

- ures, class size, teacher-student ratio, and school safety?
- Make sure that parents who choose another school ask about school climate, school values and the capacity of the school and teachers to meet the needs of their children.
 - Has the school system arranged or encouraged parents to visit the eligible choice schools, met with the principal and teachers, and discussed school programs?
 - Make sure parents know the school district must provide transportation to the schools they choose
 - Provide help to parents who are considering choosing another school and assure that they get information about the schools they are considering:
 - How does a school address the needs of struggling students?
 - How does the school address the needs of students with disabilities?
 - Do the school have plans to help children to achieve at higher levels?
 - What is the academic achievement level of students in reading/language arts and math?
 - Does the school welcome parents and involve them in school activities, both related to decision-making and assisting in supporting the school's instructional program? Do teachers and staff seem welcoming? How do they communicate with parents? Do many parents volunteer? Is there an active parent-teacher organization? Are parents involved in key decisions? Are home learning activities encouraged?
 - What percentage of the teachers is highly qualified?
 - Does the school have comprehensive support services for students such as before-and-after school programs, counselors, small class size that permits individualized student attention, and extra curricular activities that enhance achievement? Do students receive individual attention? Are they encouraged to participate? Is discipline a problem?
 - Does a school have a rich and comprehensive curriculum that includes subjects that may not be required to be tested by NCLB such as arts, instrumental music, health, and civics but are important in developing educated and enlightened citizens?
 - Does the school have a principal who includes parents as decision makers, focuses on increasing achievement and understands how students learn and develop?
 - Does the school have the resources and funding to provide high achieving instructional resources and opportunities?
 - Does the school avoid the "skill and drill" exercises that focus solely on passing the test rather than the total education of the child?
 - Does the school use multiple assessments to measure the quality of education rather than the employment of a single high-stakes test?
 - Work with the principal, teachers, parents and community leaders to help change the school from 'needs improvement' to high performing.
 - Monitor the impact of choice on students who remain in the low performing schools. Will student departures drain resources from these schools? Will instructional services be reduced as a result of student departures?
 - Work with the district in monitoring the impact of the district's choice program, the demographics of parents who make choices (are they all one race, income, gender, neighborhood), and the achievement progress of the students who transfer to assure that they are meeting the AYP expectations.
 - Monitor the academic progress of the students whose parents do not choose.

Resources

- American Federation of Teachers:
<http://www.aft.org/esea/downloads/Q&APublicSchoolChoice.pdf>
- Center for Law and Education:
<http://www.cleweb.org/disabilities/NCLB%20Choice%20and%20disability.pdf>
- Citizens Commission on Civil Rights
<http://www.cccr.org/education/index.cfm>
- Education Commission of the States:
<http://www.ecs.org/ecsmain.asp?page=/html/issue.asp?issueid=195>
- National Governors Association Choice Provision Summaries:
http://www.nga.org/center/divisions/1%2C1188%2CC_ISSUE_BRIEF%20D_4189%2C00.html
- North Central Regional Educational Laboratory:
<http://www.ncrel.org/sdrs/areas/issues/envrnmnt/famncomm/pa600.htm>
- A Report from the National Commission on Choice in K-12 Education:
<http://www.brookings.edu/dybdocroot/gb/brown/20031116schoolchoicereport.pdf>
- U.S. Department of Education:
<http://www.ed.gov/policy/elsec/guid/edpicks.jhtml?src=ln> (scroll down to Public School Choice)

Our Vision

Every day, in every community, *every* child
in America benefits from a quality public education.

Our Mission

To build public demand and mobilize resources for
quality public education for *all* children through a national
constituency of local education funds and individuals.



Public involvement. Public education. Public benefit.

601 Thirteenth Street NW Suite 710 South Washington, DC 20005
202.628.7460 202.628.1893 (fax)
www.PublicEducation.org