

## Illinois State Board of Education

### Overview of Public School Choice for Illinois Schools

The federal No Child Left Behind Act of 2001 (NCLB) provides a Public School Choice option for students in schools that have not made Adequate Yearly Progress (AYP) for two consecutive years.

Giving students in schools identified in school improvement the opportunity to attend a public school that has made AYP in the same district is one of the major components of the No Child Left Behind Act.

Resources concerning the NCLB Public School Choice option can be found at <http://www.isbe.net/accountability/html/choice.htm>.

#### Identifying Schools Which Must Offer the Public School Choice Option

Schools that do not make AYP for two consecutive years must offer their students the choice to attend a school not identified in school improvement in the same district beginning in the fall of 2002. Schools must offer School Choice until they have made AYP for two consecutive years.

#### The Public School Choice Process

- Prior to the beginning of school, the State Board of Education will notify school districts which, if any, of their schools must offer choice in the next fall term.
- Prior to the beginning of the school year, districts must notify the parents of students in choice schools that they have the option of sending their children to a school not identified in school improvement, including public charter schools, in the same district.
- Parents then have 30 days from the date of notice to decide whether to exercise the choice option.
- Students who transfer to a school not in school improvement shall be enrolled in classes and other activities in the same manner as all other children at that public school.
- Districts must provide or pay for transportation to the schools not in school improvement.
- If there are space or funding limitations, districts must give priority to the lowest achieving children from low-income families.
- If there are no schools that have made AYP in the district, it must, to the extent practicable, enter into intergovernmental agreements with neighboring districts to send its students to their schools that have not been identified in school improvement..

#### Local Boards Must Adopt a Public School Choice Policy

Each local school board must establish and implement a policy on public school choice for transferring students from attendance centers identified for school improvement. Districts affected should approve a policy immediately.

The local policy should provide at least for the following:

- (i) Procedures to ensure parents are provided with school choice information (in an understandable and uniform format and, to the extent practical, in a language parents can understand), prior to the first attendance day of the school year.
- (ii) Procedures to ensure the lowest-achieving children from low-income families are given first priority if there are space or funding limitations.
- (iii) Procedures to provide or pay for transportation to receiving public schools.
- (iv) Procedures to ensure that local school districts shall, to the extent practicable, enter into intergovernmental agreements.

- (v) Procedures to ensure transfer students are enrolled in classes and other activities in the same manner as all other students in the receiving public school.
- (vi) Procedures regarding attendance capacity should be consistent with state law and data provided to ISBE on school construction.
- (vii) Procedures to ensure that parents exercise the choice option within 30 days of their receipt of notice.
- (viii) Procedures to ensure that students transferred through choice are eligible for transportation if their home school continues to fail to make AYP or if the receiving school fails to achieve AYP.

## Common Questions about Public School Choice

### A. Eligibility of Schools and Students

1. **Which schools are required to offer school choice?** Local school districts shall provide all students enrolled in a Title I funded school that has not made AYP for two consecutive years with the option to transfer to another school that has not been identified for school improvement.
2. **How can single-school districts offer choice?** In these situations, NCLB specifies that school districts must, to the extent practicable, enter into intergovernmental agreements to offer choice.
3. **Which students can transfer out of a school in school improvement status?** All students from the school in improvement status are eligible; however, students who are the lowest achieving from low income families have first priority.
4. **Are choice schools required to offer this option to kindergarten students and those new to the school?** Yes, all students from the school in school improvement status are eligible for choice. A local assessment would determine the lowest achieving students in a K-3 attendance center and other students not participating in the ISAT.
5. **If a student was receiving bilingual services at a failing school, must the district provide those same services at the school not in school improvement?** Yes, the student would have the same right to bilingual services that were provided at the former school.
6. **If a school offers a certain number of students the opportunity to attend a school not in school improvement and not all parents take advantage of choice, must the school continue to offer choice every 30 days until the slots are filled?** No, the No Child Left Behind Act of 2001 requires that prior to the beginning of the school year, districts must notify all parents in schools that must offer choice of their option to send their children to a school not in improvement public, including any public charter school, in the same district. In addition, Section 200.44 (a) (4) of the **Title I regulations** for NCLB would require school districts to offer the parents of each eligible student a choice of more than one school, if there is more than one school in the district that has not been identified for school improvement, corrective action, or restructuring, and to take into account the parent's preferences in assigning students to a new school. In placing students in schools not in school improvement, districts must give priority to the lowest achieving children from low-income families; however, higher performing students may be offered choice as long as spaces are available.
7. **In selecting receiving schools, can a district look at proximity, school achievement scores and student enrollment (capacity) and still meet the NCLB requirements?** Yes. The district can restrict the options within a cluster/zone when there is at least one school not in school improvement that has space available. Regarding capacity, Secretary of Education Rod Paige has stated, "A school district is obligated to provide choice to all eligible students, subject to health and safety code requirements." Illinois statute (Public Act 92-604) provides that a school that exceeds, or as a result of the transfer, would exceed its attendance capacity does not have to accept students.

8. **How does an LEA determine “priority?”** Giving priority to the lowest-achieving, disadvantaged students is required by the law. An LEA can address this provision in several ways. For example, the LEA may address preferences expressed by parents for specific schools starting with the lowest-achieving children who are from low-income families. In other words, all students from low-income families (such as those students eligible for free or reduced priced lunches) may be rank-ordered within that group by achievement levels as evaluated by objective educational measures of student achievement (such as the State assessment under section 1111), at the school level or LEA level. Students may not be rank-ordered by parent income. The LEA should also give priority to the lowest-achieving children from low-income families in providing transportation.
9. **If a district has schools organized into clusters or zones, can it restrict choice options to higher performing schools within that cluster or zone?** Yes, the district can restrict the options within a cluster/zone as long as at least one school not in school improvement has space available.
10. **If a Title 1 school must offer choice, can the parent choose a non-Title 1 school?** Yes. However, Title I funds and services do not follow the child.
11. **If a receiving school has a waiting list, do children in a choice school (lowest achieving/high poverty) go to the top of the list?** Given no federal guidance on this question, ISBE has determined that NCLB transferees do not jump ahead of other students who are currently on a waiting list for a particular school.

## B. Parent Notification

1. **Must a school notify parents of their public school choice option?** Yes, if a school is designated for school improvement, it must offer choice to all parents in the school.
2. **How long can a student attend the “choice” school?** If the family remains in the district, the student can remain in the school of choice until completing the highest grade in that school. The district’s obligation to provide transportation to this school ends when the sending school is no longer in school improvement status. If the sending school is designated for school improvement status, the student could transfer again to another school in a subsequent year.
3. **How often can parents transfer a child if the school of their choice does not meet their expectations?** The choice option can only be exercised once each school year.
4. **When must the district notify parents of their choice option and what are the district’s responsibilities for this notice?** NCLB requires LEAs to provide parents with specific information regarding public school choice prior to the beginning of the school year.

### **Parental Notification Guidelines:**

An LEA must provide an explanation of the choice option to all parents of students enrolled in Title I schools that have been identified for school improvement, corrective action, or restructuring. This notification must be in a comprehensive, easy-to-understand format, and to the extent practicable, in a language the parents can understand. At a minimum, this notification must:

1. Inform parents that their child is eligible to attend another public school due to the less than adequate performance of their current school;
2. Identify each public school, including public charter schools, that the parent can select
3. Explain why the choices made available to them may have been limited; and
4. Describe the performance and quality of those schools of choice.

An LEA may provide additional information on the schools to which the student may transfer, such as a description of any special academic programs or facilities, the availability of before or after-school programs, and the professional qualifications of teachers. In addition to mailing notices directly to parents, the LEA must provide information about choice options through broader means, including newspapers, posters, and the Internet.

5. **If there are no schools to which students can transfer because (1) all schools at a grade level are in school improvement; (2) there is only one school in the district; or (3) the rural or isolated nature of the LEA prevents choice, must parents still be notified?** Yes. Parents must be notified that their child's school is identified for school improvement and that the child is eligible for choice, but that no choices are currently available. Such notification might also inform parents of the option of supplemental services for those children who are eligible. In this situation, an LEA must, to the extent practicable, work with other districts in the area to establish a cooperative agreement that would allow inter-district choice.

### C. Funding and Transportation

1. **Can Title I funds be used for non-Title I schools that receive transfer students from the Title I schools in school improvement?** As a general rule, Title I dollars and services do not follow a student who transfers from a Title I school in school improvement to a non-Title I school.
2. **What happens to ADA, Title 1 and other funding if parents transfer their child to a higher performing school in another district?** Funding remains with the district/school in school improvement. The transfer district receives funds based on an intergovernmental agreement between the two districts.
3. **Who is responsible for paying student registration fees when a student transfers to a "choice" school?** Students continue to be responsible for registration fees.
4. **How far is a choice school required to transport students?** The LEA determines this distance. In general, LEAs would consider districts immediately adjacent to those districts/schools that participate in other agreements with them such as, sports.
5. **If a district offers out-of-district choice, does the district pay for transportation?** Yes, the law stipulates that districts must set aside 20 percent for transportation and supplemental educational services. Of the 20 percent, 5 percent must be for supplemental educational services and 5 percent for transportation. The remaining 10 percent can be divided among the two.
6. **How much must an LEA pay to provide transportation related to choice?** The law establishes a joint funding mechanism for transportation and supplemental educational services. Unless a lesser amount is needed, an LEA must spend up to an amount equal to 20 percent of its Title I, Part A allocation. An LEA may, but is not required to, exceed this 20 percent if additional funds are needed. A school district could also spend state or local funds.
7. **What transportation modes can be paid or reimbursed under choice?** School buses, public transportation, cabs and reimbursement to parents for mileage and related expenses and any other reasonable form of transportation are allowed.
8. **What other Federal program dollars may be used to pay for choice-related transportation?** LEAs may use their Title V, Part A Local Innovative Education Program funds to pay for choice-related transportation. LEAs also may use funds transferred to Title I or Title V from other Federal education programs under Section 6123 to pay such costs. Programs eligible for such transfers include Title II, Part A Improving Teacher Quality State Grants; Title II, Part D Educational Technology State Grants; Title IV, Part A Safe and Drug-Free Schools and Communities State Grants. Title V, Part A State

Grants for Innovative Programs, can also be transferred to Title I. An LEA receiving discretionary grants under Title V, section 5112 and using such grants in accordance with section 5131(a)(12) may also be able to use grant funds to pay for choice-related transportation, depending on the terms of the grant award.

#### **D. Intergovernmental Agreements and Options**

1. **What should an intergovernmental agreement include?** As a result of NCLB, districts shall make a “good faith effort” to enter into intergovernmental agreement(s) and to offer choice when no district choice options exist. Such agreements should address the following key issues:
  - a. Through written correspondence, identify districts, prior to the start of the school year that may accept “choice”. Districts should keep this correspondence to document “good faith” efforts to offer choice.
  - b. The LEA should contact the school board attorney for guidance in crafting an intergovernmental agreement. Issues to be considered include transportation, tuition payments including a waiver of 5/10-20.12a of the Illinois School Code, student fees, extra curricular activities, parent notification and General State Aid payments.
  - c. School Code references related to intergovernmental agreements may be found, as follows: Ill. Const. Art. VII, Sec. 10(a), 5 ILCS 220/1, 105 ILCS 5/10-22.22c, and 105 ILCS 5/10-22.31.
2. **The law encourages cooperative arrangements with neighboring districts, but are these districts required to accept students?** No, intergovernmental agreements must be agreed to by both districts.
3. **What constitutes a district’s “good faith” effort to offer choice through an intergovernmental agreement?** At minimum the district should send a letter to surrounding district superintendents asking if the district would participate in an intergovernmental agreement. Copies of these letters and their responses should be kept to document the district’s attempts.
4. **If a school district borders another state, is the district obligated and/or allowed to establish interstate governmental agreements for school choice?** Yes, Article 7, Section 10 of the Illinois Constitution allows for cross-state governmental agreements. This, however, would present an unusual legal situation and would require more research and discussion among the two parties.
5. **What if no surrounding districts agree to intergovernmental agreements?** Under these circumstances, choice would not be available; however, each year the district must make new “good faith” efforts with other districts. Further, in this circumstance, the district may offer supplemental educational services in the first year it is in school improvement.
6. **Is an intergovernmental agreement template available to districts?** No special form is needed, only an agreement between District A and District B under which District B agrees to educate certain students from District A in exchange for District A paying tuition to District B. This document would resemble any other tuition agreement between two districts.
7. **Can students transfer to a private school under choice?** No, private schools are not choice options; however, public charter schools are.
8. **How will choice affect racial balances in schools as students transfer among schools through choice?** A student may not transfer if the transfer would prevent the school district from meeting its obligations under a state or federal law court order or consent decree. However, an LEA should first determine whether it is able to offer choice within the parameters of its desegregation plan. If it is not able to do so, or if the desegregation plan forbids the LEA from offering the choice option, the LEA needs to seek court approval for amendments to the plan that permit a transfer option for students in schools identified for school improvement, corrective action, or restructuring. If the LEA is unable to

secure changes to the plan that permits a transfer option, the LEA will be out of compliance with Title I. If that occurs, the LEA should notify the SEA of its request to the court and the court's decision.

9. **If an LEA goes back to court to amend its desegregation plan, can it use Title I funds to pay the associated legal costs?** Yes, federal regulations state that Title I funds can be used, provided the costs are "reasonable and necessary."
10. **Can schools with selective admission criteria require students to meet application timelines and/or pass specified tests?** Yes, Public Act 92-0604 requires students to meet a school's criteria if the board of education has established academic criteria for enrollment, unless the school is the only attendance center serving the student's grade that has not been identified for school improvement, corrective action or restructuring. However, LEAs should not disregard academic entrance requirements when identifying transfer options for students. For example, students wishing to transfer to a fine arts magnet school or to a school for gifted students would still need to meet the school's requirements.
11. **What if an LEA does not have space within its schools to accept transfer students?** Every student enrolled in a Title I school improvement status school who wishes to transfer must have that opportunity unless it is prohibited by State law. P.A. 92-0604 provides that the local school board adopt a policy that students may not transfer to an attendance center that exceeds or as a result of the transfer would exceed its attendance capacity. If an LEA does not have sufficient capacity to offer choice, the LEA must create additional space or provide choice in other schools. Also, as previously stated, schools that cannot offer choice may offer supplemental educational services in the first year they are in school improvement status.
12. **What if existing local transfer policies prohibit school choice?** The Title I law supersedes local laws and local school board policies that would limit school choice. The statute requires schools to offer choice regardless of local laws or school board policies.
13. **If a student chooses to enroll at a "choice" school, are future test scores of that student reported to the school not in school improvement or the original home school?** Student test scores are reported to the school not in school improvement to which the student transferred.
14. **What are the receiving school's responsibilities?** Receiving schools must recognize the special intake and transition needs of transfer students and their families. Transfer students must be enrolled in classes and other activities in the same manner as all other students at that school. This element should also be addressed in local policy.

#### **E. Issues Related to Students with Disabilities**

1. **What are the responsibilities of the school that receives transfer students with disabilities?** LEAs must work with their schools to ensure that students with disabilities are provided a free, appropriate public education consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (Title II) in their schools of choice. The LEA can allow the school of choice to either implement the individualized education program (IEP) or Section 504 plan (for students eligible only under Section 504 and Title II) that the prior school developed for the new school year, or convene an IEP team meeting and develop a new IEP that meets the student's needs. For the Section 504/Title II-only eligible student, determine the regular and related aids and services necessary to meet the student's needs. In addition, LEAs must ensure that schools comply with other non-discrimination provisions of Section 504 and the ADA, including accessibility provisions.
2. **Must schools offer students with disabilities their choice of the same schools as nondisabled students?** School districts must offer students with disabilities and those eligible under Section 504 the opportunity to be educated in a school that has not been identified as in need of school improvement and has not been identified by the State as persistently dangerous if nondisabled students have that

opportunity. However, students with disabilities do not have to be offered their choice of the same schools as are offered to nondisabled students. A school district must ensure that students with disabilities receive a free appropriate public education (FAPE) when they enroll in their school of choice. In offering choice to students with disabilities, school districts may match the abilities and needs of a student with disabilities to the possible schools that have the ability to provide the student FAPE.

- 3. If a student with disabilities is transferred to a “choice” school, does this constitute a ‘change of placement’ under the IDEA?** A change of school locations in and of itself does not trigger the ‘change of placement’ procedures under IDEA. The LEA can allow the choice school to either implement the individualized education program (IEP) that the prior school developed for the new school year, or convene an IEP team meeting and develop a new IEP that meets the student’s needs. If the school district adopts the student’s existing IEP, none of the ‘change of placement’ procedures apply. However, the school district must comply with the ‘change of placement’ requirements under IDEA if the new IEP will change the services in the IEP or the extent to which the student will participate with nondisabled students in academic and non-academic activities. Similar rules apply for students who are only covered by Section 504 or Title II of the Americans with Disabilities Act.
- 4. Does special education funding follow a student with disabilities to the school of his or her choice?** Federal special education funding is distributed to school districts, not individual schools. It is up to the school district to determine how that money is spent and how those funds are distributed among individual schools within the district.

**SAMPLE PARENT NOTIFICATION LETTER**

**Sample Letter: School Choice  
Schools in Years 1-4 of School Improvement Status**

Date

Name  
Address  
City, State Zip Code

Dear .....

As a result of the federal *No Child Left Behind Act*, your child may have the option to transfer to another school within the district. This has become an option as your child's school has not made adequate yearly progress on the State tests for at least two year.

Your child's school is in **(district chooses one of the following options)**

**Option 1** - Year 1 of school improvement which means the school has failed to make adequate yearly progress for 2 consecutive years and is required to offer public school choice

**Option 2** - Year 2 of school improvement which means the school has failed to make adequate yearly progress for 3 years and is required to offer public school choice and supplemental educational services

**Option 3** - Corrective action which means the school has failed to make adequate yearly progress for 4 years and in addition to offering public school choice and supplemental educational services at least one of the following actions will be implemented:

- Replace school staff relevant to adequate yearly progress;
- Institute and fully implement a new curriculum, with appropriate professional development for all relevant staff;
- Significantly decrease management authority at the school level;
- Appoint an outside expert to advise the school on its progress toward making adequately yearly progress, based on its school plan;
- Extend the school year or school day; or
- Restructure the internal organizational structure of the schools.

**Option 4** - Restructuring which means the school has failed to make adequate yearly progress for 5 years and in addition to offering public school choice and supplemental educational services other options might include reopen as a charter school, replace all or most of the staff, enter into a contract with an entity, state takeover, or implement any other major restructuring of the school's governance.

Our district's **(year)** report card and the most recent AYP status report for your school **(enclosed with this letter)** show how your child's school compares to other schools in our district and state. Your child's school has been identified because **(list reasons for identification)**. The school is working to improve the school's academic program by **(list what is being done)**.

The district and the State Board of Education are working with your child's school to help improve the academic standards of the school. This is being accomplished by providing technical assistance to the teachers and administrators within your child's school.

However, this may not be enough and we want to request your help as the school addresses its academic problems. The school would like to invite parents to serve on the committee that will need to develop a school improvement plan. We would also like to involve parents in addressing the academic issues that caused the school to be identified for school improvement.

As a parent you have the option to transfer your child to another public school within the district with transportation provided by the district. A list of these schools is enclosed. ***(If district has a choice agreement with another district, or if no viable option is available, please state here.)***

Please call **(name and number)** if you have any questions about these services. You may also join us to talk about your options on **(date and place)** to help you decide what is best for your child.

Thank you,

District Official

Enclosures: School Report Card  
AYP Status Report  
List of schools available for student transfers, including information on academic achievement of these schools

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**SAMPLE Public School Choice Option Form**

Please complete this form and return it to:

\_\_\_\_\_

by \_\_\_\_\_ (date 30 days after parent notification date)

If you have questions about this form or the public school choice option, please contact \_\_\_\_\_ at \_\_\_\_\_.

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Student Name(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Yes, I wish to transfer my child/children from \_\_\_\_\_ School to \_\_\_\_\_ School.

\_\_\_\_\_ Yes, my child/children need(s) transportation to \_\_\_\_\_ School.

\_\_\_\_\_ No, I do not wish to transfer my child/children from \_\_\_\_\_ School.

Parent/Guardian Name \_\_\_\_\_

Parent/Guardian Address \_\_\_\_\_

Parent/Guardian Phone Number \_\_\_\_\_

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date