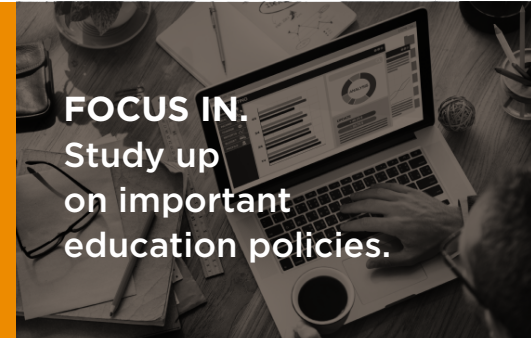




POLICY ANALYSIS



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Open Enrollment: Overview and 2016 legislative update

MICAH ANN WIXOM

Open-enrollment policies allow students to transfer from one public school to another of their choice. While open-enrollment policies involve students

46 STATES PLUS THE DISTRICT OF COLUMBIA (D.C.) HAVE POLICIES ADDRESSING OPEN ENROLLMENT IN SOME WAY.

transferring to another school or district, the specifics of these policies vary significantly across states. States' open-enrollment policies may allow for voluntary or mandatory participation at the district level, and they can also allow for intradistrict transfer, interdistrict transfer or both.

INTRADISTRICT Students transfer to another school *within* their resident school district.

INTERDISTRICT Students transfer to another school *outside* of their resident

Voluntary open-enrollment policies allow schools or districts to decide whether they will accept transfer students who live outside of their boundaries. In contrast, mandatory policies require all schools or districts to accept transfer students, although mandatory policies may be subject to restrictions.

A number of states have both voluntary and mandatory open-enrollment policies. Typically, these states require mandatory open enrollment in low-performing districts, in defined regions of the state or in other specific circumstances, while also allowing voluntary open enrollment in the rest of the state.

While open-enrollment programs vary quite widely across states, they possess key common elements:

- State and local funding normally follows the student, although some states allow districts or schools to charge tuition to the student or sending district.

In 2016, **six states** passed legislation substantively updating their open-enrollment policies: **Arizona, Florida, Indiana, Minnesota, Nebraska** and **Tennessee**.

Minnesota created the **nation's first interdistrict open-enrollment policy** in 1988.

- Most provide a space available opt-out provision for districts and schools.
- Most ensure that transfers cannot supersede a court-ordered desegregation program.
- States often allow – or require – districts to create enrollment priorities for open-enrollment transfer students, such as siblings of currently enrolled students or students transferring from low-performing schools. States generally prohibit districts from selectively accepting or denying students based on achievement, extracurricular or athletic ability, disabilities or English-language proficiency.

History and Analysis

In 1988, the Minnesota Legislature passed the nation’s first interdistrict open-enrollment policy requiring schools and districts to allow and accept student transfers across district boundaries. In 1989, following Minnesota’s lead, Arkansas, Iowa, Nebraska and Ohio passed open-enrollment policies. The following year, Idaho, Utah and Washington enacted their own open-enrollment policies. Several additional states adopted limited pilot programs during that time.

One of the frequently-cited benefits of open enrollment is that it provides low-income parents with school options that they can’t otherwise access.¹ Open-enrollment policies allow students to stay in public schools, while also providing additional public education options that can help increase their academic achievement and success.

However, opponents argue that the negative consequences of these policies disproportionately affect low-income students, families and schools. While a few states address transportation for children from low-income families, most states’ policies typically require parents to provide transportation to and from school. Since children from low-income families and from other populations that are at risk for low academic performance are more likely to have limited transportation options, they may face barriers to participating in open enrollment. In addition,

research indicates that high-performing students are more likely to participate in open enrollment. This exacerbates low performance issues in schools, because the highest-performing students are more likely to transfer to higher-performing schools or districts.²

State Landscape

Nearly all states – 46 plus D.C., – have policies addressing open enrollment in some way. Seventeen states plus D.C., have voluntary open-enrollment policies, 14 states have mandatory open-enrollment policies and 15 states have a combination of both voluntary and mandatory policies.

There are a small number of states where open enrollment is widely available with few restrictions. However, most states – even those with mandatory interdistrict or intradistrict open-enrollment policies – have multiple limitations on these programs. For example, interdistrict open enrollment is mandatory in four cities in **Connecticut** but voluntary throughout the rest of the state. **Arkansas** has mandatory interdistrict open enrollment, but state policy limits the number of school choice transfers a sending school district may approve. In **Mississippi**, interdistrict open enrollment is voluntary statewide but students living more than 30 miles from their assigned school must be allowed to attend a school in another district. School districts in **Texas** approve intradistrict transfer requests on an individual basis and **Vermont’s** open-enrollment policies apply only to high schools.

In addition, a number of states have open-enrollment policies that specifically address access issues, including geographic access for students facing long travel times to their assigned school – such as those in **Georgia** and **Kentucky** – and access for students in districts that do not operate a school – such as **Maine**.

Enrollment Priorities

Twenty-eight states plus D.C., have open-enrollment policies that allow or require school districts to give transfer priority to certain students. In most cases, states require school



districts to give priority enrollment to specific students or student groups. In a few states, state policies suggest priority groups for open-enrollment transfers but allow school districts to establish their own priorities.

Although specifics vary from state to state, priority groups commonly include the following:

- Students living in the district or school residence zone.
- Previously enrolled students.
- Siblings of currently enrolled students.
- Children of district or school staff.

States may also give preference to students transferring from low-performing schools, students in foster care or children of active-duty military families. If transfer requests exceed the capacity of a school or school district, most states require the district to hold a lottery or create a ranked waiting list based on priority. A number of states prohibit districts from accepting students who have been suspended or expelled.

For example, **Delaware** requires districts to give priority to returning students, students living in a school's designated feeder zone and siblings of currently enrolled students. After addressing these priorities, districts may further prioritize students who designate the school as one of their top three choices, students who live in the district and children of school employees. In **Louisiana**, school districts must give priority to students who transfer out of low-performing schools and schools identified as persistently dangerous. **Oregon** allows districts to make open-enrollment transfer decisions and does not mandate which student groups must be given priority. However, the state requires school districts to hold a lottery if transfer requests exceed school or district capacity and state policy suggests three priority groups. **Utah's** open-enrollment policies do not set specific enrollment priorities but do specify that districts may give priority to intradistrict transfers.

Transportation

Thirty-five states address transportation issues in their open-enrollment policies, and generally require parents to provide transportation. However, a number of states specifically allow school districts to enter into agreements with other school districts to provide transportation for open-enrollment students. For example, receiving districts in **Ohio** may provide transportation to open-enrollment students to and from stops along a regular bussing route. In cases where students transfer out of low-performing schools – in **Arkansas**, for example – or transfer to address racial imbalances – such as in **Massachusetts** – states may require the sending districts to provide transportation or pay transportation costs. A small number of states also require districts to provide transportation to income-eligible students.

Desegregation Plans

Of the states with open-enrollment policies, 24 specifically address desegregation plans or other diversity issues. Generally, these policies allow existing desegregation orders to preempt open-enrollment laws and policies. In other words, schools and districts in these 24 states, such as **Colorado**, **Missouri** and **Washington**, may deny an open-enrollment transfer if the transfer would interfere with existing court orders or desegregation plans.

2016 Legislative Update

In 2016, six states passed legislation updating or refining their open-enrollment policies: **Arizona**, **Florida**, **Indiana**, **Minnesota**, **Nebraska** and **Tennessee**.

Most notably, the Florida Legislature passed legislation making both intradistrict and interdistrict open enrollment mandatory rather than voluntary. The legislation also addressed enrollment priorities and established a list of student groups that districts must prioritize when accepting open-enrollment transfers, including: children of active-duty military personnel, children in foster care, students living in the school district boundaries and children transferring because of court-ordered custody changes.

Open Enrollment Breakdown by State

■ **Mandatory**
■ **Voluntary**
■ **Both Mandatory and Voluntary**



ALASKA

Mandatory intradistrict for students from school in facilities district.



ARIZONA

Mandatory intradistrict and interdistrict.



ARKANSAS

Mandatory interdistrict. Mandatory intradistrict and interdistrict for students from schools in facilities district.



CALIFORNIA

Voluntary intradistrict and interdistrict. Mandatory intradistrict and interdistrict for students from low-performing schools or districts.



COLORADO

Mandatory intradistrict and interdistrict.



CONNECTICUT

Voluntary intradistrict. Mandatory intradistrict and interdistrict for priority school districts.



DELAWARE

Mandatory intradistrict and interdistrict.



FLORIDA

Mandatory intradistrict and interdistrict.



GEORGIA

Voluntary interdistrict for students with long transportation times to their assigned school. Mandatory intradistrict if space is not available in the student's school and certain conditions are met.



HAWAII

Voluntary intradistrict.



IDAHO

Mandatory intradistrict and interdistrict, although not if the transfer would be a hardship for the receiving district.



INDIANA

Voluntary interdistrict for specific reasons, like overcrowding or curriculum offerings. Mandatory intradistrict and interdistrict in Indianapolis Public Schools.



IOWA

Mandatory interdistrict when parents request the transfer. School districts have authority to determine which school the student will attend.



KANSAS

Voluntary interdistrict.



KENTUCKY

Voluntary interdistrict. Mandatory intradistrict for students to attend the school closest to their home.



LOUISIANA

Voluntary interdistrict. Mandatory intradistrict and interdistrict for transportation issues, for students attending a school identified as persistently dangerous or academically unacceptable and for any school that has been released from the state's Recovery School District.



MAINE

Voluntary intradistrict and interdistrict. Students living a long distance from their assigned school or in districts without a school may attend another school district.



MASSACHUSETTS

Voluntary intradistrict and interdistrict.



MICHIGAN

Voluntary intradistrict and interdistrict at the intermediate district level. Mandatory intradistrict for low performing-schools.



MINNESOTA

Mandatory interdistrict.



MISSISSIPPI

Voluntary interdistrict. Mandatory interdistrict for geographic access.



MISSOURI

Voluntary interdistrict, plus a voluntary open-enrollment program specific to schools in St. Louis. Mandatory interdistrict for unaccredited school districts.



MONTANA

Voluntary intradistrict and interdistrict. Mandatory interdistrict for students in certain circumstances, including living a long distance from their assigned school or facing geographic barriers.



NEBRASKA

Mandatory intradistrict and interdistrict, plus policies specific to learning community districts.



NEVADA

Voluntary interdistrict, including for students facing geographic access to their assigned school or living on an Indian reservation located in two school districts.



NEW HAMPSHIRE

Voluntary intradistrict and interdistrict.



NEW JERSEY

Voluntary interdistrict. School districts apply to participate in the interdistrict public school choice program.



NEW MEXICO

Voluntary intradistrict and interdistrict. Mandatory intradistrict and interdistrict for students attending low-performing schools.



NEW YORK

Voluntary interdistrict.



NORTH DAKOTA

Voluntary interdistrict.



OHIO

Voluntary interdistrict. Mandatory intradistrict and interdistrict for students attending alternative schools.



OKLAHOMA

Voluntary interdistrict. Mandatory intradistrict and interdistrict for children of active-duty military.



OREGON

Voluntary interdistrict.



PENNSYLVANIA

Voluntary interdistrict.



RHODE ISLAND

Voluntary intradistrict and interdistrict.



SOUTH CAROLINA

Voluntary interdistrict.



SOUTH DAKOTA

Mandatory intradistrict and interdistrict.



TENNESSEE

Voluntary intradistrict and interdistrict.



TEXAS

Mandatory intradistrict, but transfer decisions are made on an individual basis. Mandatory interdistrict is required if parents and both school districts agree to the transfer.



UTAH

Mandatory intradistrict and interdistrict.



VERMONT

Mandatory intradistrict and interdistrict, but only for high school students.



VIRGINIA

Voluntary intradistrict.



WASHINGTON

Voluntary intradistrict and interdistrict: districts are strongly encouraged to allow interdistrict transfers. Mandatory interdistrict in certain circumstances.



WEST VIRGINIA

Voluntary intradistrict and interdistrict.



WISCONSIN

Voluntary intradistrict. Mandatory interdistrict, although sending districts may limit the number of transfers.



WYOMING

Voluntary intradistrict and interdistrict.



WASHINGTON, D.C.

Voluntary intradistrict. The state also allows open-enrollment transfer students to participate in extracurricular activities immediately, with some restrictions.



Nebraska made multiple changes to its open-enrollment policies. The state now requires school districts to adopt transportation policies and to provide free transportation to income-eligible students. The state also made changes to open-enrollment policies specific to learning communities, which are collective groups of multiple school districts in a geographic region. Changes include setting acceptance priorities for learning community member districts and requiring member districts to publish maximum capacity for buildings in the district.

Arizona and Minnesota made adjustments to the student groups given acceptance priority. Although Arizona does not require school districts to give preference to students, the state's open-enrollment policies now specifically allow districts to give priority to students in foster care and children of school or district staff. Similarly, Minnesota now requires school districts to give priority to children of school district staff. Indiana now allows districts to accept open-enrollment transfer students who attend an alternative education program. Finally, school districts in Tennessee that accept open-enrollment transfer students no longer have to receive permission from students' resident school districts before enrolling the students.

OPEN ENROLLMENT AND FEDERAL POLICY

Under the Every Student Succeeds Act, school districts may allow students attending low-performing schools to transfer to a higher performing public school in the district unless state law prohibits it. This was required under the No Child Left Behind Act.

AUTHOR

Micah Ann Wixom is a policy analyst in the K-12 Institute at Education Commission of the States and has a master's degree in public administration. She enjoys reading, traveling and staying warm. Contact Micah at mwixom@ecs.org or **303.299.3673**.

Endnotes

1. Adam M. Herrmann, Nathan Burroughs and Jonathan A. Plucker, *Open Enrollment in K-12 Public Education* (Bloomington, Indiana: Center for Evaluation & Education Policy, vol. 7, no. 3, 2009), 1-3, <http://files.eric.ed.gov/fulltext/ED507075.pdf> (accessed December 21, 2016).
2. Deven Carlson, Lesley Lavery and John F. Witte, "The Determinants of Interdistrict Open Enrollment Flows: Evidence from Two States," *Educational Evaluation and Policy Analysis*, vol. 33, no. 1 (2011): 76-94, doi: 10.3102/0162373710388643.

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