Information Sheet – 3/13/18 - Board of Trustees Meeting

TO: Board of Trustees Item 5.4

FROM: Celli Coeville

DATE: March 8, 2018

RE: Policy Revision – Students, BP/AR 5116.1, Intradistrict Open Enrollment

The Board Policy and Administrative Regulation, BP/AR 5116.1, Intradistrict Open Enrollment Transfers, have been updated to delete priority for intradistrict open enrollment for students transferring out of a school identified for program improvement (PI), as the Every Student Succeeds Act (ESSA) (P.L. 114-95) eliminated requirements to offer such transfers. Policy also clarifies that Open Enrollment Act transfers for the 2016-17 school year are to be based on the CDE's 2015-16 list of open enrollment schools since the Academic Performance Index is currently suspended. Regulation also reflects ESSA requirement that students who were previously granted intradistrict transfers out of a PI school must be allowed to remain in the school to which they transferred until the highest grade offered by the school.

The submission date for intradistrict transfers for Board Policy 5116.1 has been changed to March 15 – April 15 from May 1- May 15.

Recommendation: Approve Board Policy and Administrative Regulation, BP/AR 5116.1, as presented.

INTRADISTRICT OPEN ENROLLMENT

The Governing Board desires to provide enrollment options that meet the diverse needs and interests of district students and parents/guardians, while also ~~balancing enrollment in order to maximize~~ maximizing the efficient use of district facilities. The Superintendent or designee shall establish procedures for the selection and transfer of students among district schools in accordance with law, Board policy, and administrative regulation.

(cf. 5117 - Interdistrict Attendance)

The parents/guardians of any student who resides within district boundaries may apply to enroll their child in any district school, regardless of the location of residence within the district. (Education Code 35160.5)
(
cf. 5111.1 - District Residency)
~~*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*~~
~~*(cf. 5111.13 - Residency for Homeless Children)*~~

The Board shall annually review this policy. (Education Code 35160.5, 48980)

Enrollment Priorities

No student currently residing within a school's attendance area shall be displaced by another student transferring from outside the attendance area. (Education Code 35160.5)

(cf. 5116 - School Attendance Boundaries)

The Superintendent or designee shall grant priority to any district student to attend another district school, including a charter school, outside of his/her attendance area as follows:

1. Any student enrolled in a district school that has been identified on the state's Open Enrollment Act List. (Education Code 48354)
(cf. 5118 - Open Enrollment Act Transfers)

~~2. Any student enrolled in a district school receiving Title I funds that has been identified for program improvement (PI), corrective action, or restructuring. (20 USC 6316)~~
~~*(cf. 0420.4 - Charter Schools)*~~
~~*(cf. 0520.2 - Title I Program Improvement Schools)*~~
~~*(cf. 6171 - Title I Programs)*~~

~~3~~ 2. Any student enrolled in a district school designated by the California Department of Education as "persistently dangerous." (20 USC 7912; 5 CCR 11992)
(cf. 0450 - Comprehensive Safety Plan)

~~4~~ 3. Any student who is a victim of a violent crime while on school grounds. (20 USC 7912)

~~5~~ 4. Upon a finding that special circumstances exist that might be harmful or dangerous to the student in the current attendance area. Special circumstances, include, but are not limited to, threats of bodily harm or threats to the emotional stability of the student. Any such student may transfer to a district school that is at capacity and otherwise closed to transfers.
To grant priority under these circumstances, the Superintendent or designee must have received either: (Education Code 35160.5)

a. A written statement from a representative of an appropriate state or local agency, ~~such as~~ including, but not necessarily limited to, a law enforcement official, social worker, or a properly licensed or registered professional~~,~~ such as a psychiatrist, psychologist, or marriage and family therapist

b. A court order, including a temporary restraining order and injunction

~~6~~ 5. Any sibling of a student already in attendance in that school.

~~7~~ 6. Any student whose parent/guardian is assigned to that school as his/her primary place of employment.

Application and Selection Process

In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, applications for intradistrict open enrollment shall be submitted between ~~May 1 – May 15~~ March 15 – April 15 of the school year preceding the school year for which the transfer is requested.

The Superintendent or designee shall calculate each school's capacity in a nonarbitrary manner using student enrollment and available space. (Education Code 35160.5)

Except for priorities listed above, the Superintendent or designee shall use a random, unbiased selection process to determine who shall be admitted whenever the school receives admission requests that are in excess of the school's capacity. (Education Code 35160.5)

Enrollment decisions shall not be based on a student's academic or athletic performance, except that existing entrance criteria for specialized schools or programs may be used provided that the criteria are uniformly applied to all applicants. Academic performance may be used to determine eligibility for, or placement in, programs for gifted and talented students. (Education Code 35160.5)
(cf. 6172 - Gifted and Talented Student Program)

Transportation
Except as required ~~by 20 USC 6316 for transfers out of Title I PI schools~~ for students who transferred out of a Title I program improvement school , the district shall not be obligated to provide transportation for students who attend school outside their attendance area.

~~However, upon request, the Superintendent or designee may authorize transportation contingent upon available space and funds. Priority for any such transportation shall be based on demonstrated financial need.~~

(cf. 3250 - Transportation Fees)
(cf. 3540 - Transportation~~)~~

Legal Reference:
EDUCATION CODE
200 Prohibition against discrimination
35160.5 District policies; rules and regulations
35291 Rules
35351 Assignment of students to particular schools
46600-46611 Interdistrict attendance agreements
48200 Compulsory attendance
48204 Residency requirements for school attendance
48300-48316 Student attendance alternatives, school district of choice program
48350-48361 Open Enrollment Act
48980 Notice at beginning of term
CODE OF REGULATIONS, TITLE 5
11992-11994 Definition of persistently dangerous schools
UNITED STATES CODE, TITLE 20
6311 State plans
~~*6316 Transfers from program improvement schools*~~
7912 Transfers from persistently dangerous schools
~~*CODE OF FEDERAL REGULATIONS, TITLE 34*~~
~~*200.36 Dissemination of information*~~
~~*200.37 Notice of program improvement status, option to transfer*~~
~~*200.39 Program improvement, transfer option*~~
~~*200.42 Corrective action, transfer option*~~
~~*200.43 Restructuring, transfer option*~~
~~*200.44 Public school choice, program improvement schools*~~
~~*200.48 Transportation funding for public school choice*~~
COURT DECISIONS
Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275
ATTORNEY GENERAL OPINIONS
85 Ops.Cal.Atty.Gen. 95 (2002)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
~~*U.S. DEPARTMENT OF EDUCATION NONREGULATORY GUIDANCE*~~
Public School Choice FAQs ~~, January 2009~~
Every Student Succeeds Act - Update #8, July 14, 2017
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions, rev. May 4, 2016
Unsafe School Choice Option, May 2004
WEB SITES
CSBA: http://www.csba.org
California Department of Education , http://www.cde.ca.gov ~~Unsafe School Choice Option: http://www.cde.ca.gov/ls/ss/se/usco.asp~~
U.S. Department of Education, No Child Left Behind: http://www.ed.gov ~~http://www.nclb.gov~~

INTRADISTRICT OPEN ENROLLMENT

Transfers for Victims of a Violent Criminal Offense

Within a reasonable amount of time, not to exceed 14 days, after it has been determined that a student has been the victim of a violent criminal offense while on school grounds, the student's parents/guardians shall be offered an option to transfer their child to an eligible school identified by the Superintendent or designee. In making the determination that a student has been a victim of a violent criminal offense, the Superintendent or designee shall consider the specific circumstances of the incident and consult with local law enforcement as appropriate. Examples of violent criminal offenses include, but are not limited to, attempted murder, battery with serious bodily injury, assault with a deadly weapon, rape, sexual battery, robbery, extortion, or hate crimes.

The Superintendent or designee shall consider the needs and preferences of the affected student and his/her parent/guardian in making the offer. If the parent/guardian elects to transfer his/her child, the transfer shall be completed as soon as practicable.

Transfers from a "Persistently Dangerous" School

Upon receipt of notification from the California Department of Education (CDE) that a district school has been designated as "persistently dangerous," the Superintendent or designee shall provide parents/guardians of students attending the school with the following notifications:

1. Within 10 days of receipt of the notification from CDE, notice of the school's designation

2. Within 20 days of receipt of the notification from CDE, notice of the option to transfer their child

(cf. 0450 - Comprehensive Safety Plan)

Parents/guardians who desire to transfer their child out of a "persistently dangerous" school shall provide a written request to the Superintendent or designee and shall rank-order their preferences from among all schools identified by the Superintendent or designee as eligible to receive transfer students. The Superintendent or designee may establish a reasonable timeline, not to exceed seven school days, for the submission of parent/guardian requests.

The Superintendent or designee shall consider the needs and preferences of students and parents/guardians before making an assignment, but is not obligated to accept the parent/guardian's preference if the assignment is not feasible due to space constraints or other considerations. For students whose parents/guardians accept the offer, the transfer shall generally be made within 30 school days of receiving the notice of the school's designation from the CDE. If parents/guardians decline the assigned school, the student may remain in his/her current school.

INTRADISTRICT OPEN ENROLLMENT (continued)

The transfer shall remain in effect as long as the student's school of origin is identified as "persistently dangerous." The Superintendent or designee may choose to make the transfer permanent based on the educational needs of the student, parent/guardian preferences, and other factors affecting the student's ability to succeed if returned to the school of origin.

The Superintendent or designee shall cooperate with neighboring districts to develop an interdistrict transfer program in the event that space is not available in a district school.

(cf. 5117 - Interdistrict Agreements)

Other Intradistrict Open Enrollment

Except for transfers for victims of a violent crime and from a "persistently dangerous school," the following procedures shall apply to intradistrict open enrollment:

1. The Superintendent or designee shall identify those schools which may have space available for additional students. A list of those schools and open enrollment applications shall be available at each school site, the district office, and on the district's web site.

2. After the enrollment priorities have been applied in accordance with Board policy, if there are more requests for a particular school than there are spaces available, a random drawing shall be held from the applicant pool. A waiting list shall be established to indicate the order in which applicants may be accepted if openings occur during the year. Late applicants shall not be added to the waiting list for the current year but shall instead wait for a subsequent lottery.

3. The Superintendent or designee shall provide written notification to applicants as to whether their applications have been approved, denied, or placed on a waiting list. If the application is denied, the reasons for denial shall be stated.

4. Approved applicants must confirm their enrollment within 10 school days.

Any student who, prior to the 2016-17 school year, was granted a transfer out of a Title I school that had been identified for program improvement shall be allowed to remain in the school of enrollment until he/she completes the highest grade offered at that school.

~~Once enrolled, a~~ A student granted intradistrict enrollment under other circumstances shall not be required to reapply for readmission~~. However~~, but ~~the student~~ may be subject to displacement due to excessive enrollment.

Any complaints regarding the open enrollment process shall be submitted in accordance with the applicable complaint procedure.

(cf. 1312.3 - Uniform Complaint Procedures)

INTRADISTRICT OPEN ENROLLMENT (continued)

Notifications

Notifications shall be sent to parents/guardians at the beginning of each school year describing all current statutory attendance options and local attendance options available in the district. Such notification shall include: (Education Code 35160.5, 48980)

1. All options for meeting residency requirements for school attendance

(cf. 5111.1 - District Residency)
~~*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*~~
~~*(cf. 5111.13 - Residency for Homeless Children)*~~
(cf. 5118 - Open Enrollment Act Transfers)

2. Program options offered within local attendance areas

3. A description of any special program options available on both an interdistrict and intradistrict basis

4. A description of the procedure for application for alternative attendance areas or programs and the appeals process available, if any, when a change of attendance is denied

5. A district application form for requesting a change of attendance

6. The explanation of attendance options under California law as provided by the CDE

(cf. 5145.6 - Parental Notifications)